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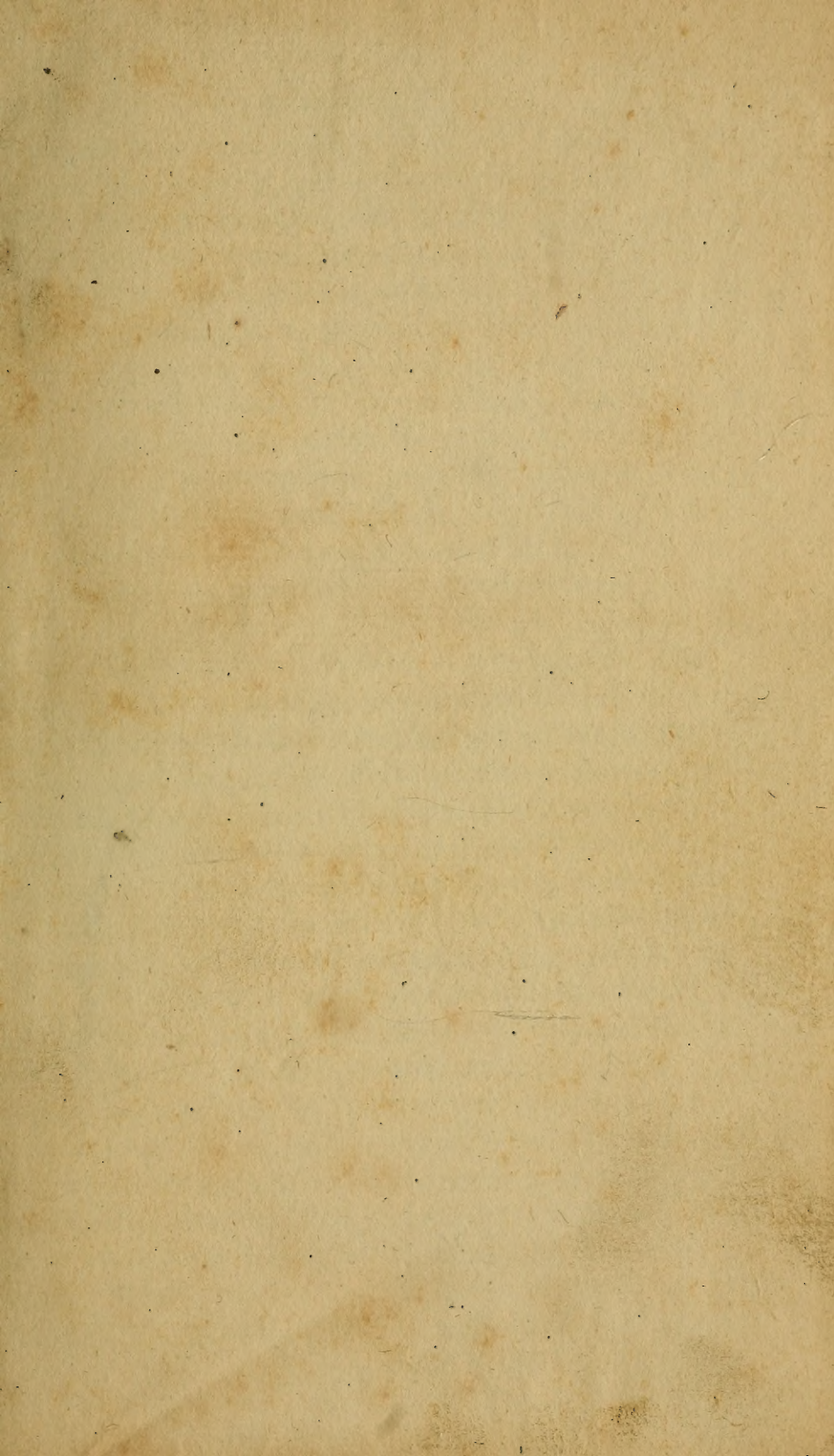
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Trinity Term 1727. King's Bench.

TO establish the Practice of this Court upon the late Act of Parliament for preventing frivolous and vexatious Arrests, *It is Ordered, that from and after the last Day of this present Term, in all Causes where a Copy of the Process of this Court is served upon any Defendant or Defendants, and an Appearance is entered, or common Bail filed for such Defendant or Defendants, by the Plaintiff's Attorney, pursuant to the said Act; the Plaintiff's Attorney in such Case shall leave a Copy of the Declaration in the Office with the proper Officer appointed for that Purpose, and likewise give Notice thereof to the Defendant or Defendants by delivering an English Notice written in Secretary Hand to such Defendant or Defendants, or by leaving the same at the last or most usual Place of Abode of such Defendant or Defendants, in which Notice shall be likewise express'd the Nature of the Action, and at whose Suit prosecuted, and the Time limited by the Rules of this Court for such Defendant or Defendants to plead to such Action, and that in case such Defendant or Defendants do not plead to such Declaration by such limited Time, so to be express'd in such Notice, Judgment will be enter'd against such Defendant or Defendants by Default, and from the Time of giving such Notice as aforesaid, such Declaration shall be deemed well delivered to such Defendant or Defendants, and not otherwise.*

And in Case such Defendant or Defendants (after such Notice given) do not plead by the Time the Rules for Pleading are out, the Plaintiff in such Case may sign his Judgment without any other or further calling for a Plea, And thereon give Notice of executing his Writ of Enquiry, either by delivering a Notice in Writing to such Defendant or Defendants, or by leaving the same at the last or most usual Place of Abode of such Defendant or Defendants; which shall be a sufficient Notice to such Defendant or Defendants of the Time of executing such Writ of Enquiry.

John Adams

Instructor Clericalis.

Directing CLERKS, IN THE Present PRACTICE of the COURTS OF King's Bench AND Common Pleas.

Viz. In the

Abbreviation and Contraction of Words, (and thereby the speedy Reading of Precedents) in the Filling up and Suing out Writs of First Process; In drawing Declarations, Pleas and Demurrers; Making up Issues and Paper-Books; Ingrossing Records; Entering Judgments; Suing out Writs of Execution, Writs of Error, Originals, Outlawries, &c. And also the Method of Passing Fines, &c.

WITH

An Addition of Special Notes and Observations in the Court of COMMON PLEAS, Alphabetically digested.

The Seventh Edition, wherein the Errors of the Former Impressions are carefully corrected and amended: And to which is now added, Several Modern Precedents of Declarations, Issues and Writs; together with the Statutes, and Modern Resolutions of the Judges, relating to the Practice, and the Rules and Orders of Both Courts to this present Time.

In the SAVOR:

Printed by E. and R. NUTT, and R. GOSLING,
(Assigns of Edw. Sayer, Esq;) for Joel Stephens, at
the Hand and Star between the Temple Gates in Fleetstreet.
MDCCXXVII.

Instructions Clerical

Directing Clerk

Present Practice of the

COURT

ADAMS 252.14

King's Bench

Common Pleas

Abbreviation and Connection of Words (and their
by the speedy Reading of Proceedings) in the Writing
up and saving our Writs of this Process in Writing
Distinctions, Pleas and Demurs, Making up Issues
and Paper-Books, Keeping Records, Finding Juries
and saving our Writs of Execution, Writs of Error,
Originals, Outlawry, &c. And also the Method of
Pleading Pleadings, &c.

An Addition of Special Pleas and Objections to the
Court of Common Pleas, &c. &c. &c.

The Security Council, &c. &c. &c.

In the Year 1707

TO THE READER.

S I R,

THIS Treatise you will perceive was chiefly collected and published for the Instruction of Young Clerks, in the Business of their First Years, and hath met with such a General Approbation of the Attornies and Practisers, That Six Impressions thereof have been already bought up; and another being now wanting, I have to this Seventh Edition, by the Assistance of Several of the most Eminent Practisers of Both Courts, made Considerable Amendments and Additions, which render the Whole agreeable to the present Practice of each Court.

In this Edition, those Errors, which had escaped in the former Impressions, are carefully corrected: Several Mo-

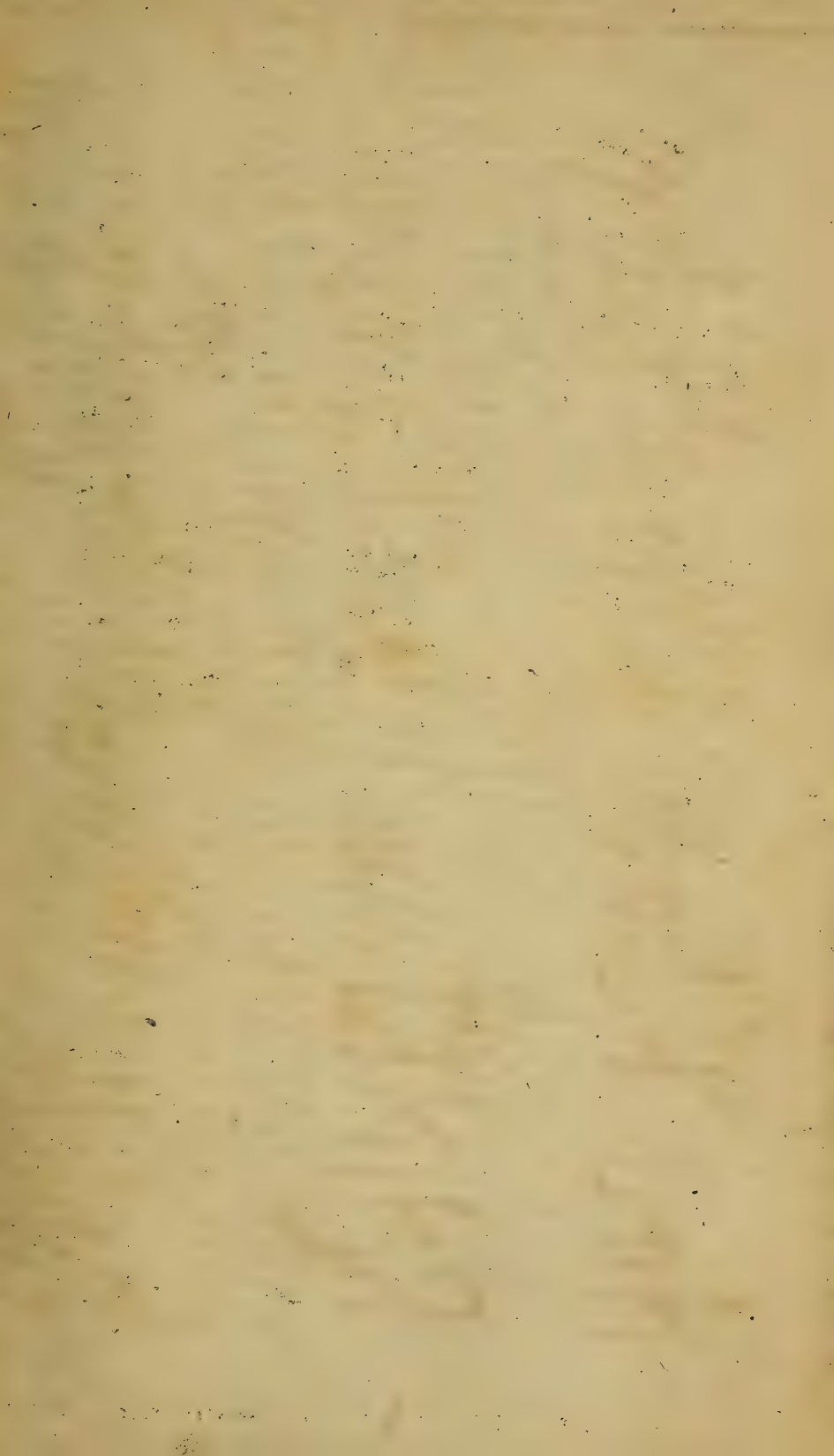
TO the R E A D E R.

dern Precedents of Declarations, Issues and Writs are added: The Acts of Parliament which relate to the Practice; The Rules and Orders, and several Modern Resolutions of Both Courts are inserted, under their proper Heads. I have also added the Method of Proceeding by Original in B. R. and the several Ways of passing Fines, conformable to the present Rules. All which being intended for the Publick Benefit, are submissively recommended to Your favourable Acceptance by

Your Servant,

R. G.

INSTRUC-



A a B b C c D d E e F f G g

Aa Bb Cc Dd Ee Ff Gg

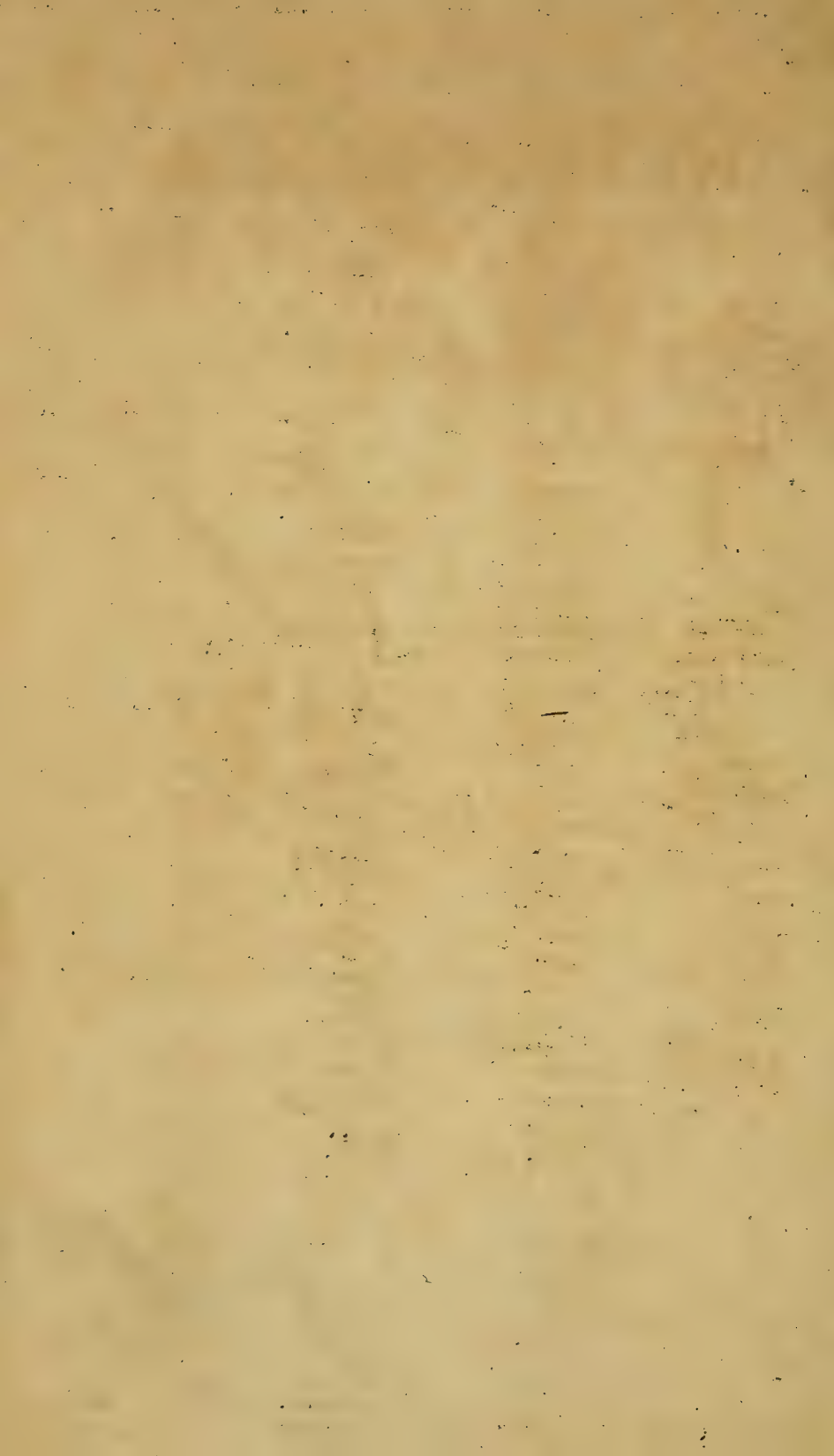
H h I i K k L l M m N n O o P p

Hh Ii Kk Ll Mm Nn Oo Pp

Q q R r S s T t U u V v W w X x Y y Z z

Qq Rr Ss Tt Uu Vv Ww Xx Yy Zz

De
ber
cer
per
pro
per pro propria
que
tum curum



INSTRUCTIONS

FOR

Young Clerks.

THE first Thing requisite for a Young Clerk is to learn to write well; especially to understand the true Breaks and Proportions of Secretary and Court-Hands; by the Knowing whereof, he will easily fall into the Cursory or Running Hands.

He may in the next Place use himself to read Writs, Declarations and Pleadings in Court-Hand, and endeavour to know the Abbreviations of Syllables, and Contractions of Words; for he will meet with very many of these in Writs and Pleadings, and not being used to them, will be hard put to it to know what to call them, and that perhaps when he shall be *obliged* to read them openly.

It is accounted very commendable to abbreviate and contract Words, and to dash and turn them up Clerk-like: Therefore that the Young Clerk may know the Method thereof, I have hereafter put down most of those Words he will meet with, either abbreviated or contracted; both for his Imitation, and Instruction readily to read them.

B

And

Of Abbreviations.

And first observe that these Syllables following are usually abbreviated.

b ber, b^o bus, c cer, m di do dum,
g gra, m mer, n ner, p per, p pra,
p pre, p pro, qm quem, qm quam,
q que, qd quod, r rus, r rum, t ter,
t tra, t tur, v ver, v us, u um,
to tio tio, &c.

These Syllables are usually abbreviated at the Beginning and Middle of Words.

b ber, Libtas, Libertas, Gilbertus,
Gilbertus.
c cer, ctus, certus.
g gra, gtis, gratis, gtitudo, grati-
tudo.
m mer, mcatoy, mercatoy, amciament,
amerciamentum.
n ner, bulnavit, vulneravit.
p per, pcutit, percussit.
p pre, pmissa, premissa.
p pro, ptulit, protulit, appbavit, ap-
probavit.
t ter, tra, terra, mittet, mitteret,
brevit, breviter.
to tio & tio, pclamaconem, narrao,
narraconem.
t tra, tnsgrē, transgressio, ext, extra.
v ver, vus, versus.

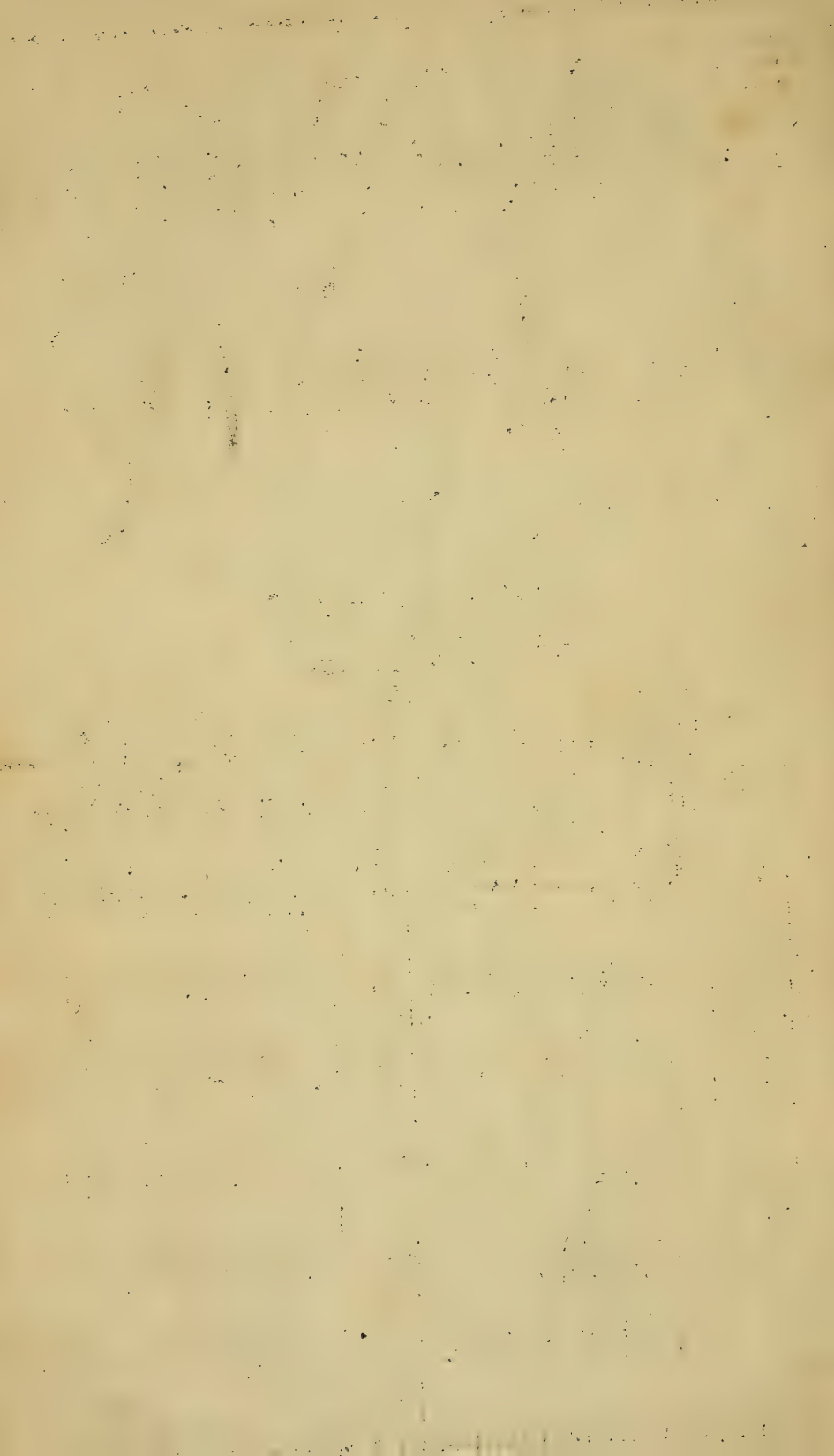
These

b b z d i g m n y p p p g m
 g m g z g d z b b b l v a

w t r b

er b b z m n y b v y ra f g p b
 b z t b m p p g m g m g z g d z b l w b r b.

b	libtas	libtas	p	pmissa	pdtas		
b	obus	licet	dosi	p	pabilis	pnt	po
w g	g bis	z	Bogno	b	hta	koz	mttbtg
m	mottor	mmt	ts	poltmttonem			
n	pultatit			b	bisg	mttbt	
p	pnttit	sygno	v	pntdntat	pdtat		



*These Syllables are usually abbreviated
at the End of Words.*

b^o bus, (The Dative or Ablative Case)
quib^o, quib^o cunq^{ue}.

m di do dum, (Gerunds) as habendi,
habendum, tenendi, tenendum,
inſloquendi, inſloquendi, in-
nuendi, innuendo.

p per, nup, nuper, ſemp, ſemper.

p pra, ſup, ſupra.

q^m quam, (the Conjunction,) q^mmbis.

q^{ue} que, quicunq^{ue}.

q^u quem.

q^{uod} quod, (the Conjunction,) q^{uod}libet.

q^{uam} rum, after a, e, o, qua^m, quarum,
re^m, rerum, quor^{um}, quorum.

r rus, (Participles) as futur^{us}, futurus,
ſerbitur^{us}, duratur^{us}, per omnes
Caſus.

ſo ſio & tio, ſico, verſio oraſio, oraſio.

t ter, brevie, breviter.

t tur, querit.

u um, meſſuagi^{um}.

u us, Gulielm^{us}.

& et, &c.

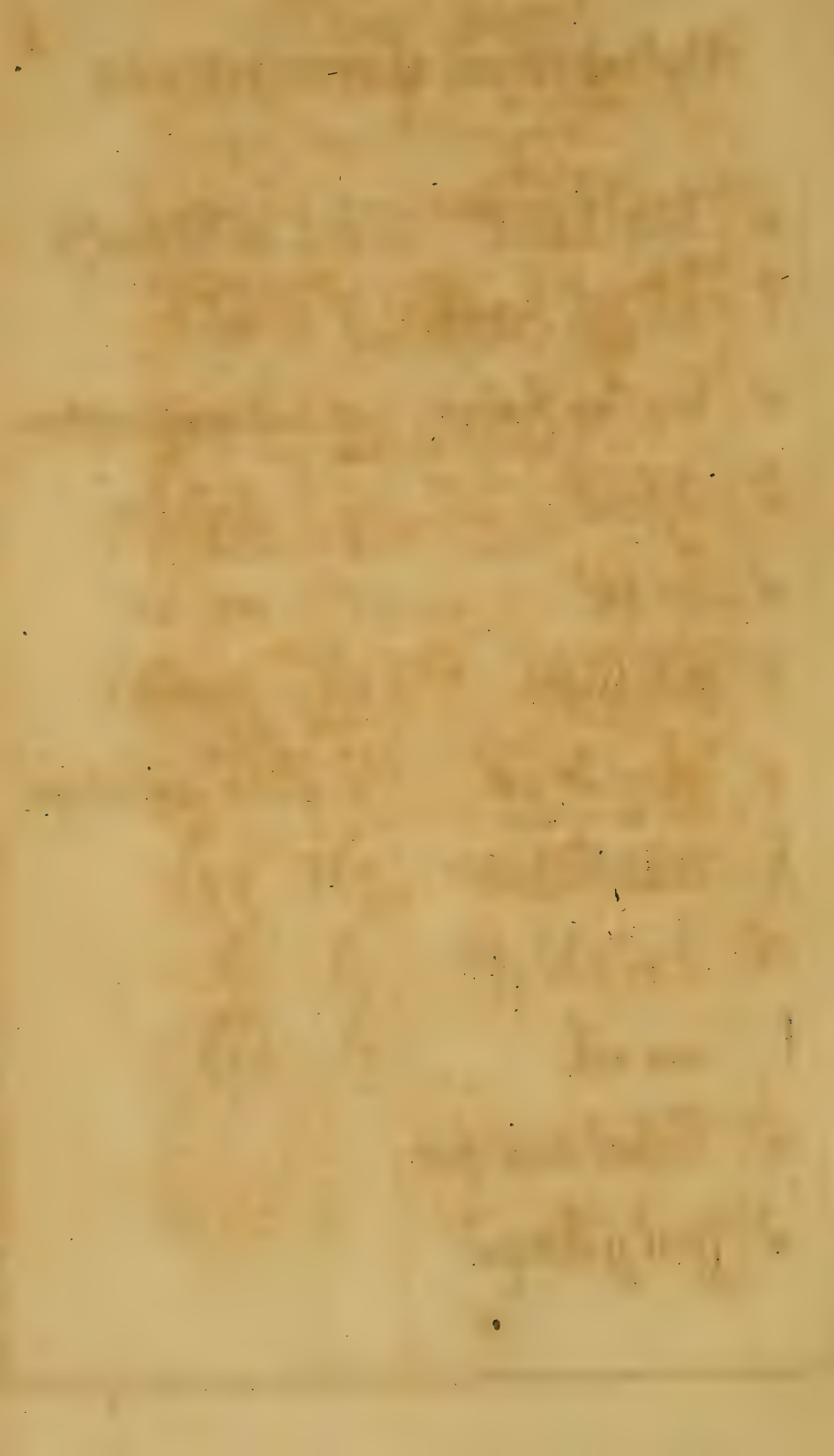
*Note, There are no Dipthongs uſed in
Law-Pleadings, the Letter e being
always uſed for æ.*

Alphabetical Contractions at

- (a) as una vacca, unam vaccam, gra, gratia, &c.
- (b) as nob, vob, octab, nobis, vobis, octabis, &c.
- (c) as dic, Dic, Iustic, fac, Franc, dicit, Vicecomes, Iusticiarius, facias, Francia.
- (d) as defendi for defendit, p̄d for p̄dictus, per omnes Casus.
- (e) as v̄d f̄a, venire facias, h̄e h̄ebe.
- (f) as def. for defendens, Suff. for Suffolcia, &c.
- (g) as p̄leg de p̄lequenti Plegii &c. atting for attingunt, cussag, &c.
- (h) as attach for attachiatus.
- (i) as Ep̄i for Episcopi, P̄d P̄d, P̄is P̄ius.
- (l) as Cul, bill, ille, Ange, fidel, Capital, Culpabilis, villa, illa, Anglia, fidelis, Capitalis, &c.
- (m) as Westm̄ for Westmonasterium, sum̄ fuit for summonitus fuit.
- (n) as ven̄ p̄ Attoz̄n, for venit per Attoz̄natum, Maḡ B̄rittān, &c.
- (o) as p̄o l̄o suo, ponit loco suo, Id̄o, ideo.
- (p) as sup̄ for supra.
- (q) as cumq̄ for cumque.
- (r) as pp̄t for propria, Cur̄, Injur̄, futur̄, &c.
- (s) as con̄s consideratio, p̄mis̄ for premissa, mis̄, missis, vis̄, visis.

Alphabetical Contractions

a	but' batet'	o	po lo sio Jo
b	ick uob botab	p	sip
c	bit die Justis	gz	Emmz obitum
d	defend	v	app' tuss
e	lo' fet'	ov	mo' bio
f	Defi Duffi	b ^{al}	pegnisib ^{al}
g	plex do po'	id	bind mesuagiu
h	abbach' fuit	y)	yx)
i	Ep' p' p' p'	y)	y)
k	non tuit	z)	lz)
m	Restant sunt fuit		
n	ven' y abbozu		



- (t) as requisite, for requisitus, p̄fac for p̄fatus, &c.
 (u) as unū messuagiū, aurū, argentū, denariū.
 (x) as p̄x' for proximus, per omnes casus.
 (p) as p̄ for p̄eoman, but rather p̄eomū.
 (z) as viz', videlicet, m̄chandiz' for merchandize, &c.

A Word that is written short, or abbrevi- Styl. Praet.
 ated without a Dash, is not good; be- Reg. 351.
 cause the Dash or Turning up of a
 Stroke, is the general Mark to distin-
 guish an abbreviated Word from a Word
 at Length.

Neither ought the Dash or Turning up to
 be misplaced, as heret and not heret',
 for haberet, huit and not hūit nor
 huiē for habuit, tēdum and not ten-
 tum for tenementum, tris and not
 tris' for terris; for where the last Syl-
 lable is at Length, the Dash or Turning
 up ought not to be made at the End
 of it.

Of Abbreviations.

Christian Names abbreviated and contracted.

A Bꝛus for Abrahamus, so Abꝛi, Abꝛo, Abꝛum.

Alexꝛ for Alexander, so Alexꝛi, Alexꝛo, Alexꝛum.

Andꝛ for Andreas, per omnes Casus.

Antꝛus for Antonius, so Anthi, Antho, Anthum.

Bapꝛta for Baptista, Bapꝛte for Baptista, &c.

Barthꝛus for Bartholomeus, so Barthi, Bartho, Barthum.

Benjaminꝛ for Benjaminus, per omnes Casus.

Benedꝛus for Benedictus, Benedꝛi, Benedꝛo, Benedꝛum, &c.

ꝑꝛotoꝛus for Christophorus, so ꝑꝛotoꝛi, ꝑꝛotoꝛo.

Davidꝛ ꝑ omnes Casus, and so of other Hebrew Names.

Eðꝛus for Edmundus, so Eðꝛi, Eðꝛo, Eðꝛum.

Eðꝛus for Eðwardus, so Eðꝛi, Eðꝛo, Eðꝛum.

Ephꝛaim in omnibus.

Elizabeth for Elizabetha in omnibus.

Fraꝛcus for Franciscus, Fraꝛci, Fraꝛco, Fraꝛcum.

Galtꝛus for Galtfridus, Galtꝛi, Galtꝛo, Galtꝛum.

Gil-

Gilbtus for Gilbtri, &c. her being contracted in the Middle in most Words.

Godfrus for Godfridus, so Godfri, Godfro, Godfrum.

Humphrus or Humfrus for Humfridus, so Humfri, Humfro, Humfrum.

Johes for Johannes, so Johis, Johi, Johem.

Michis for Michaelis, so Michi, Michem.

Nichus for Nicholas, Nichi, Nicho, Nichum.

Phus for Philippus, Phi, Pho, Phum.

Ricus for Ricardus, Rici, Rico, Ricm.

Robtus for Robertus, Robri, Robto, Robtum.

Stephus for Stephanus, Stepbi, Stepho, Stepbum.

Walrus for Walterus.

Willus for Gulielmus or Willielmus, Wilti, Wilto, Wiltum.

Wilfus for Wilfridus, Wilfdei, Wilfdo, Wilfum, &c.

Note, All Sir-names and Names of Places must be wrote at Length.

Common Words contracted or abbreviated.

A Bbtia for Abbatia, so Abbtie, Abbtiam, &c.

Adx for ad sextam.

Abbreviations and Contractions.

Anim for Animarum.

Als for Alias.

Archus for Archangelus, Archi, Archō, Archum.

Archepus for Archiepiscopus, Archiepi, Archiepo, &c.

Appoie for appositus, p omnes Casus, id est, for any Case in that Word.

Ar for Armiger, p omnes Casus.

Asses for assessatus, p omnes Casus.

Assign for assignatus, p omnes Casus.

Algia, amila, alsias, amilas.

Ami, amidunt, &c.

Attozn, attoznatus, &c.

Atting, attingunt, &c.

Or for such case
or Person as the
Sense and *Latin*
require.

Ballia, balliva, ballius, ballivus, ballium, ballivum.

Bar, Baronettus, p omnes.

Bill, billa, &c. p omnes.

Bon, bonus, &c. p omnes Casus.

Brus, beatus, bti, bte, bto, btum.

Bve, breve, bdis, brevis, bdi, bdia, bdiū, bdiū, &c.

Clicus, Clericus, Clici, Clico, Cliciū, Clicoz.

Clin, clausum, cli, clo, clis.

Cōis, communis, cōi, cōem, cōes, cōib.

Comp'tum, computum, comp'i, comp'a, comp'is.

Cons, consideratum.

Cem, crassimum, cri, cro.

Cur, Curia, p omnes Casus.

Dñus, Dominus, Dñi, Dño, Dñm, Dñoz.

Dtus,

Abbreviations and Contractions.

9

D'rus, dictus, d'ri, d're, d'to, d'tum,
d'ta, d'toꝝ, &c. d'ris.

Debrum, debitum, debi, debo, deboꝝ,
debiꝝ.

Def. defendens.

Defcꝝ, defectus, defctꝝ.

Dilcꝝ dilectus, dilci, dilco, dilctꝝ.

D'nico, Dominico, D'nicꝝ, D'nica, &c.
in D'nico suo ut de feodo.

Ecclesia, Ecclesia, Eccle, Eccliam, &c.

Effcꝝ, effectus, effctꝝ, effequum, &c.

Eid, eidem.

Ex'aiatꝝ, examinatur.

Extr'pōit, extrapositus, p omnes Casus.
Ex'ec for Executoꝝ & Executio, which
is doubtful.

Fcꝝ, factus, fci, fco, fctꝝ, factum,
fca, fcoꝝ, fcis.

Flus, fallus, fli, flo, flum, floꝝ, flis.

Feod feodum, p omnes Casus.

Fris, fratris, frēm, frē, frēs, frīum,
frībus.

Gabis, gabisus, p omnes Casus.

Gen, generosus, p omnes Casus.

Genal, generalis, p omnes Casus,
gtis, gratis.

Grā, gratia, Grē for grave.

H'eas, habeas, het, habet, hēns, ha-
bens, hent, habent, hend, habendum.

Here, habere, huit, habuit.

H'oies, homines, hois, hominis.

Hūmoi, hujusmodi.

Iō, ideo, ibm, ibidem.

Ip'e, ipse, ip'ꝝ, ipsum, ip'os, ip'is.

Incrꝝ, incrementum.

Ingrꝝ, ingressus.

Abbreviations and Contractions.

Imppetū, imperpetuum.

Instant, instantia, p omnes Casus.

Jur, Jurator, p omnes Casus.

Justic, Justiciarius.

Lat, latitat, &c.

Leglis, legalis, legle, legale, leglia,
leglium, leglib⁹.

Libe, libere, libtas, libertas.

Licet, liceret.

U'ttime, legittime.

Lira, litera, lre, lra, lras, lris.

Mda, miserecordia, & pō def. in mia,
&c.

Mind, minime.

Millimo, millesimo, &c.

Magr, magister.

Mar, Marese, Mareeschallus, Ma
reschallie, custod Mar, Marese, &c.

Middr, Middlesex, Die Middr sat
tem, Vicecomiti, &c.

Mis, misus, mis & custag suis, &c.

Narr, narratio, p omnes Casus.

Natlis, natalis, natle, &c.

Nob, nobis.

Nr, noster, ūri, nostri, ūrd, nostrum,
ūro, ūroq, ūris.

Nōen, nomen, nōis, nominis, nōie,
nomine.

Nōiate, nominatur.

Nup, nuper.

Nung'm, nunquam.

Oēs or oñes, omnes, oīs, omnis, oñi,
omni, oēm, omnem, oīa, oīum, oīb⁹.

Oīo or oñio, omnino.

Oñiod, omnimodum.

Omitt, omittas, &c.

ppum, perpetuum.

pti, pertinentiis, pertinentia, &c.

P'ris, Patris, P'tri, P'trem.

P'ria for Patria, P'riam.

pō, p'edictus, p omnes Casus.

p'it, p'teritus, p omnes Casus.

plutum, placitum, pliti, plito, plita,
plitor, plitis.

pr', proximus, p omnes Casus.

post, postea, pē, post.

ppē, p'oprius, &c. p omnes Casus.

ppē, propter.

Pleg de p's, Plegii de p'osequendo.

Pō lō suo, ponit loco suo, as in a War-
rant of Attorney.

Parē, Parliamentum, &c. p omnes
Casus.

Q'm, quam, the Conjunction properly.

Quer, querens, p omnes Casus.

Quereē, querela, p omnes Casus.

Qd for quod the Conjunction properly,
but it is used indifferently.

Quib'cunq, quibuscunq.

Ad recogn, ad recognoscendum, & qui
nec, &c. ad recogn, &c. quia tam, &c.

Respēus, respectus, respēm, respectū, &c.

Respons, responsum.

Rēozia, Rectoria, Rēozie, Rēoziam, &c.

Rñi, Regni, Anno Rñi nri nunc, &c.

Rñe ratione, Rotlo for Rotulo.

Rōnabilis, rationabilis, rōnabilem, &c.

Sabti, Sabbathi.

Sacrum, Sacramentum, Sacri, Sa-
cro, Sacra, &c.

Salutem, salutem, vic Middx salutem,
ut antea.

Sūs, Sanctus, Sēi, Sancti, Sēo, Sēa,
Sēon, Sēis. Scūs,

Abbreviations and Contractions.

Secus, secundus, **secū**, **secūo**, **secūdū**, &c.
Secūm, Scaccarium, **Secū**, **Secūo**,

&c. Anglice, the Exchequer-Court, &c.
Scot, Scotia.

Sile, simile, **silis**, **sili**, **silie**, similiter,
silia, **silib**.

Scilicet or **ff**. scilicet.

Spec or **specificat** for **specificatus**, &c.

Sum, **summonitus**, **sum fuit ad res**
spondendū, &c.

Sup'rtus; **supradictus**, &c.

Supp'oit, **suppositus**, p omnes Casus.

Sp'ialis, **specialis**, **sp'ialem**, **sp'iale**, &c.

Sp'ualis, **spiritualis**, **sp'ualem**, &c.

Tle, **tale**, **tlig**, **talig**, &c.

Titlus, **titulus**, **titli**, **titlo**, **titlum**, &c.

Tentum, **tenementum**, **teñti**, **teñto**,
teñta, **teñtis**.

T for **Tesse** in Writs, as **T. Rohto Raymond Hil**, &c.

T'minus, **terminus**, **T'mini**, **T'mio**,
T'mid, **T'minis**.

Tesim & **Tesum** for **Testamentum**,
Texti, **Texto**, **Texta**, **Textis**.

Tnggr, **transgressio**, p omnes Casus.

Trin, **Trinitas**, p omnes Casus.

Ven, **venit**, &c.

Vic, **Viccomes**, p omnes Casus.

Vid, **vidua**, p omnes Casus.

Vicū or **vicin** for **vicinitas**, &c.

Vize & **videlt**, **videlicet**.

Volunt, **voluntas**, &c.

Ult, **ultimus**, p omnes Casus.

Ur', **uroz**, **ur'is**, **urozis**, **ur'i**, **ur'e**, &c.

Westm, **Westmonasterium**.

xii^{cim} **duodecim**.

xv^a **quindena**, **xv^{am}** **quindenam**, &c.

There

There are also Clerk-like Contractions of *English* Words, as Adm^{rs} Administrators, ag^t against, Afs^s Assigns, BP Bishop, Com^{ers} Commissioners, Coven^{ts} Covenants, D^r Doctor, Esq^r Esquire, Exec^{rs} Executors, Hon^{ble} Honourable, H^d Honoured, Ind^{re} Indenture, L^d Lord, L^{dps} Lordships, L^{re} Letter, M^d Memorandum, M^r Master, Mefs^{es} Messuages, M^{rs} Mistress, Mat^y Majesty, ob^t obedient, p^d paid, Possi^{on} Possession, Q^{er} Quarter, f^d said, S^r Sir, Serv^t Servant, S^t Saint, Ten^{ts} Tenements, tow^{ds} towards, yⁿ then, y^e the, y^t that, y^r your, Wp^{ll} Worshipful, *cum multis aliis.*

Jan. January, *Feb.* February, *Apr.* April, *Aug.* August, 7^{ber} September, 8^{ber} October, 9^{ber} November, 10^{ber} December.

Thirty Days hath September,
April, June and November;

* February hath Twenty-eight alone.

* Except in Leap Year it hath 29.

All the rest have Thirty and one.

The Counties of *England* and *Wales* are thus written, viz.

England.

- | | | |
|------------------|--------|-------------------|
| 1. B edf. | } or { | 21. Lincoln |
| 2. Berks | | 22. Middx |
| 3. Bucks | | 23. Monmouth |
| 4. Cantabr | | 24. Norf |
| 5. Cestr | | 25. North |
| 6. Cornub | | 26. Northumb |
| 7. Cumb | | 27. Notingh, or |
| 8. Derb | | Notte |
| 9. Devon | | 28. Oxon |
| 10. Dorst | | 29. Rutl |
| 11. Dunelm | | 30. Salop |
| 12. Essex | | 31. Somers |
| 13. Ebor | | 32. Staff. |
| 14. Glouc | | 33. Suff. |
| 15. Heref. | | 34. Surre |
| 16. Hertf. | | 35. Suffer |
| 17. Hunc | | 36. Suthr, or |
| 18. Kane | | South |
| 19. Lanc | | 37. War |
| 20. Leic | | 38. Westm |
| | | 39. Wigorn, i. e. |
| | | Worcester |
| | | 40. Wilts |

Wales.

- | | |
|-------------------|------------------|
| 1. A ngles | 7. Flint |
| 2. Brecon | 8. Glamorgan |
| 3. Cardigan | 9. Merioneth |
| 4. Carmarthen | 10. Mountgomerie |
| 5. Carnarvon | 11. Pembroke |
| 6. Denbigh | 12. Radnor |

Cities and Towns having a Sheriff or Sheriffs.

Civitas	{	Bristol	}	habent duos Vicecomites.
		Cobent		
		Cestr		
		Ebor		
		Glouc		
Villa	{	Lincoln, London	}	
		Notwic		
		Port		
Civitas	{	Cantuar	}	habent unum Vicecomitem.
		Ebor		
		Lich		
		Wigorn		
Villa de	{	Kingston sup	}	
		Hull		
		Southton		
		Pool		
		Robi Castri sup Tinam,		

Numbers.

NOTE 'Tis reckoned more Clerk-like to write all Sums and Figures, till past Five at length, as *primo*, *secundo*, &c. but after Five in Numerical Figures, as VI. VII. VIII. MD CC XXVI. &c. But this is meant as to Copies, Precedents, Tette of Writs, and such Things as are not of Record, for there all Numbers and Sums ought to be in Words at length.

The Cursitors write XV. for *quindécim*, without (cim) over it ; and in the Tettes of their Writs, *primo*, *secundo*, *tertio*, *quarto*, *quinto die*, afterwards VI. VII. VIII. *die*, without an (o) over, and not VI^o, &c.

I have the rather set down these Things, because you may meet with them and many more thus abbreviated and contracted, especially in the Business of the *King's Bench*, which is not so nice and exact as that of the *Common Pleas*, who observe stricter Rules in their Writing, and generally write fairer, and with much less Abbreviations or Contractions than the *King's Bench*.

As for Example ; If Words have above Five Minims, or short Strokes, then to turn up the last Letter, as *unū*, *mesuagium*, *coragium*, &c.

Difference in Abbreviations.

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So where Words have about five Minums, in the Middle, to use a Dash over instead of an m, as for *immunis* write *imūnis*, for *commodum* write *comōdum*, *examinatio* *examinatio*.

To use a V Consonant before all Vowels, either in Secretary or Court-Hand, and for the readier distinguishing it from an n, as *habuit*, *buldavit*, *pformavit*, *pimplevit*; and not *ibavit*, *uuldavit*, *pformavit*, *pimplevit*.

To dash the Letters b, h, and l, where they are used for Abbreviation, through the Top thus. *h* ber, as *Robtus*, *h*, here, *I* videt, *Augt*, &c. except the Nominative Cases of Hebrew Names ending in l, as *Abel*, *Daniel*, *Gabriel*, &c. and all Surnames.

Where Words are in both the singular and plural Number, to write the same at Length, as *Iusticiarius* & *Iusticiarii*, and not *Iustic'* for both; so *Magnatus* & *Magnati*, *Magnae*, *Magnae*, and not *Magn* for both.

To write *existens*, *tenens*, and all Participles ending in *ens* at Length, for the Nominative Case, and not *existen'*, *tenen'*, &c.

To write all Towns and Surnames at Length, as *Milberton*, *Culpeper*, not *Milrtton*, *Culpep*; and not to use p for par, as *pochia* for *parochia*, *ptes* for *partes*, and the like.

Also not to abbreviate the last Syllable of Words, whose Nominative Case ends in *sis* or *tio* at the n, for other of

Difference in Abbreviations.

its Cases, as narracō for narrationis, narratiōt, narratiōnem, assumptō for Assumptionis, &c. but to write the last Syllable at Length, dashing over the cō, narracōnis assumptōnis.

The Clerks of the *King's Bench* and *Common Pleas* differ also in their Forms, as follows, viz.

King's

King's Bench Forms.

Common Pleas Forms.

1. **A** Pud London
Vidett in
Paroch bte Marie
de Arcub' in Ward
de Cheape London.

2. Anno Regni
Dom Georgii nunc
Regis Magni Bri-
tan Ec. decimo tto.

3. Unde petit Ju-
diciu si p'd * Quer
actionem suam p'd
inde h'ere e'd here
seu manutenere de-
beat, &c.

4. Quoad Venire
Vi & Armis seu
quicquid quod est
contra pacem dic'
Dñd Regis nunc
dic' q'd ipe non est
inde Culpabilis.

5. Et de hoc pon
se sup p'riam, Et
p'd * Quer alit,
&c. Iō ven inde
jur' coram Dño Re-
ge apud Westm die
mcurii x' post
tres septidnas scd
Trin Et qui nec,
&c. ad recogn, &c.
quia tam, &c. idem
dies dat est partib'
p'd ibm, &c.

1. **A** Pud Lond In the De-
in Paroch claration.
bte Marie de Ar-
cubus in Warda
de Cheap.

2. Anno Regni
Dom Regis nunc
decimo tto.

3. Unde per Ju-
diciu si p'd * Quer Conclusion
actionem suam p'dic- to a Plea in
tam versus eum Bar.
here debeat, &c.

4. Quoad Venire
Vi & Armis dic'
q'd ipe in nullo est
inde culpabilis put
p'd Quer sup'ius
versus eum queritur.

5. Et de hoc pon
se sup p'riam, Et
p'dic' * Quer alit * Note, You
Iō p'cepe est Dic write the
quod Venire fac Plaintiff's
hic a die scd Trini Name in-
tat' in tres septia- stead of.
nas XII^{cim}, &c. p Quer'.
quos, &c. Et qui
nec, &c. ad recogn,
&c. quia tam, &c.

King's Bench.

If the Plaintiff take
Issue, then

Et hoc pet' qđ in-
quirat' p' P'ziam &
p' Def. filie, &c.
Iō ven' inde Jur,
&c. as before.

Et heas ibi tunc
hoc h'z.

Cepit & abcarri-
abit.

Decimo tertio,
decimo quarto, de-
cimo quinto, deci-
mo sexto, &c.

Septendecim oc-
todecim, novende-
cim.

Mesuagiū, Co-
tagiū, Sigillae.

Et alia enozmia
ei ad tunc et ibi-
dem, intulit con-
tra pacem dia Dñi
Regis nunc; Ad
dampnum ipsius
Quer decem Libra-
rum. Et inde pro-
duc' Secam, &c.

At the End
of a Decla-
ration.

Common Pleas.

If the Plt take Issue
then.

Et hoc pet' qđ
inquiratur p' P'zi-
am Et p' Def. fi-
lie' Iō p'cept' est
Dic, &c. As before.

Et habeas ibi
hoc h'z.

Cepit & asporta-
vit.

Tertio decimo,
quarto decimo,
quinto decimo, sex-
to decimo.

Decem & septem,
decem & octo, decem
& novem.

Mesuagiū, Co-
tagiū, Signae.

Et alia enozmia,
&c. ad g'be damp-
num, &c. & contra
pacem, &c.

Unde dicit quod
deteriorat' est &
dampnum het ad
Valenc' decem libr'
& inde pduc' Sec-
tam, &c.

Next it will be proper to speak of the Four Terms, and their Returns for Writs.

Of the Four Terms.

THree Weeks after Michaelmas-Day, *i. e.* Michaelmas-20 October, is the Effoin-Day of Michaelmas-Term, and the Fourth Day after inclusive is the First Day of the Term, which is always the 23 of October, if it be not Sunday; but if Sunday, then the 24th, and endeth the 28th of November, if not Sunday; and if Sunday, then the 29th.

Vide Stat. 16 Car. I. c. 6. for the Limitation and Abbreviation of this Term and the Returns thereof.

Hillary-Term beginneth the 23d Day of January, if not Sunday: But more exactly, that Day eight Weeks on which Michaelmas-Term ended: (It's Effoin-Day being Jan. 20.) and endeth the 12th Day of February, if not Sunday, being always the same Day of the Week that Michaelmas-Term beginneth.

By Reason you have often Occasion in Michaelmas-Term, to make Writs returnable in Hillary-Term before the Common Almanacks are published; it may be of Use to observe that this Term beginneth the same Day of the Week that Michaelmas-Term endeth, and endeth the same Day of the Week that Michaelmas-Term beginneth, and both Terms begin the same Day of their respective Months.

Easter-Term beginneth the Wednesday Fort- night or 17 Days after Easter-Day; it's Effoin-day being Sunday before, but held on Monday; and ends on Monday before Whitsunday.

C 3

Trinity-

*Easter-Term
Wednesday
Fortnight af-
ter Easter*

Of the Four Terms.

Trinity-Term,
Friday after
Trinity-Sun-
day.

Trinity-Term beginneth the *Friday* after *Trinity-Sunday*, being the same Day of that Month on which *Easter-day* fell on in its Month; it's *Effoin-day* being *Monday* before, (for *Thursday* being *Corpus Christi*, it is pretermitted) and ends on *Wednesday* Fortnight after the Term beginneth. *Vide* 32 *H. 8. cap. 21.* This Term had seven Returns, but by this Statute abbreviated for fear of an Infection.

The issuable Terms are *Hillary* and *Trinity* only, so called because in them the Issues are joined and the Records made up, which are to be carried down, and tried at the Lent and Summer Assises, which immediately follow each of these Terms; And note, that the whole Term in Construction of Law is accounted (in many Cases) but one Day, and therefore a Judgment had, or a Plea put in the last Day of a Term, is a Judgment or Plea as of the first Day of the Term; but such Judgment shall not affect a Purchaser, but only from the Day such Judgment was signed.

Michaelmas-Term contains 5 Weeks and 2 Days, and hath 6 Returns.

In the *Common Pleas*, and upon all Writs returnable ubicunque.

1. A die Scd Michis in tres Septimas.
2. A die Scd Michis in und Menssem.
3. In Crastino Animarum.
4. In Cró Scd Martini.
5. In Octab Scd Martini.
6. A die Scd Martini in quindecim dies.

Of the Four Terms.

In the *King's Bench*, upon *Latitats* also plur distring', &c. say

- | | |
|----------------------|-----------------------------|
| Die (Lune) Michis. | pr' post tres sept' Scd |
| Die (Sab'ti) Michis. | pr' post Menssem Scd |
| Die (Sab'ti) rum. | pr' post Crastinū Animarum. |
| Die (Lune) Martini. | pr' post Crastinū Scd |
| Die (Lune) tini. | pr' post Octab Scd Martini. |
| Die (Lune) Martini. | pr' post Quindē Scd |

Mentioning a Day certain.

Hilary-Term contains three compleat Weeks, and hath 4 Returns.

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Common Pleas.

In *King's Bench*, in all Writs not returnable ubique, say

1. In Octab Sed Pillarit.

2. Al die Sed Pillarit in quindecim dies.

3. In Crō Pur tte Marie.

4. In Octab Pur tte Marie.

Die . . . pr' post Octab Sed Pill.

Die . . . pr' post Quinden Sed Pillarit.

Die pr' post Crō Pur tte Marie Virginis.

Die pr' post Octab Pur tte Marie Virginis.

Easter-Term contains 3 Weeks and 6 Days, and hath 5 Returns.

1. Al die Pasche in quindecim dies.

2. Al die Pas in tres Septimanas.

3. Al die Pasche in und menscm.

4. Al die Pasche in quinq Sept.

5. An Crastino Ascensionis Dñi.

Die pr' post Quinden Pasche.

Die pr' post tres Sept Pasche.

Die . . . pr' post menscm Pasche.

Die . . . pr' post quinq Sept' Pas.

Die . . . pr' post Crō Ascension

Dñi. Mentioning a Day certain.

Trinity

Of the Four Terms.

Trinity-Term wants one Day of three Weeks, and hath four Returns.

Common Pleas.

1. In *Trō* *scē* *Trinitatis*.
2. In *Quat* *scē* *Trinitatis*.
3. A *die* *scē* *Trīd* in *quindēcīm* *dieb*.
4. A *die* *scē* *Trīd* in *tres* *Septid* *nas*.

In *King's Bench*, in all Writs not returnable *ubique*, say

{ *Die* *pr'* *post* *Trīd* *scē* *Trinitatis*.
Die *pr'* *post* *Quat* *scē* *Trinitatis*.
Die *pr'* *post* *Quindē* *scē* *Trinitatis*.
Die *pr'* *post* *tres* *Septidnas* *scē* *Trinitatis*.
Mentioning a Day certain.

So that the *Common Pleas* Writs generally are returnable on no Day certainly expressed, but only *coram* *Iustic* *nis* *apud* *Westm* a *die* *scē* *Michis* in *tres* *Septidnas*, &c. Except Writs not by Originals, as Attachments of Privilege, which must have a Day certain.

And so that the *King's Bench* Writs are mostly returnable on some certain Day of the Week next after some certain Return, as *die* *June* *pr'* *post* *tres* *Septidnas* *scē* *Michis*, and the like, except the Proceedings be by way of Original.

Of the Four Terms.

Of

Of the Returns.

IN each Return throughout the respective Terms, are four Special Days, viz.
 1. The *Essoin* Day, i. e. the Day in the Writ mentioned. 2. The *Exception* Day. 3. The *Retozna Brebium* Day. 4. The Day of Appearance, which is the 4^o *die post* being the last of the Return, and the Day on which the Court sits.

The first *Essoin* Day regularly in Law, is accounted the first Day of the Term, and is the fourth Day inclusive before what is commonly called the Beginning of the Term, and on that Day one of the Judges formerly sat to take *Essoins*, &c. So that the fourth Day after, commonly called the Beginning of the Term, seems to be a Day of Grace, given by the Court for the Parties appearing.

The *Essoin* Day of every Term is said to be (in) in the Return, and every Day after is said to be (post), as *die Lune in Octab scē Trin*, *die Martis pr^o post Octab scē Trin*.

The Day that every Term begins, and the Day every Term ends, are the first and last Days of Appearance.

As every Term is said to begin on the 4^o *die post* of the first Return thereof, so it always ends the 4^o *die post* of the last Return; but if the 4^o *die* fall on

a *Sunday*, then the Term begins or ends on the *Monday* after, except in *Trin* Term, the *Effoin* Day of the first Return whereof, is always *Monday*, and regularly the *quarto die* is the *Thursday* after, but that being *corpus Christi* Day, and *dies non juridicus*, it is held the *Friday* after: Though the *Effoin* Day fall on a *Sunday*, yet the 4^o *die post* is computed from that Day, as from any other, and is to be the *Wednesday* following; whereas had the *Effoin* Day been *Monday*, the *quarto die* would have been *Thursday*; and if the *quarto die*, *retro* *na brevium*, or *Exception* Days fall on *Sunday*, the same are kept on *Monday* next following; and so is the *Effoin* Day when it falls on a *Sunday*; and in such Cases the *Exception* and *Return* *Brevi* Days are included in one, *viz.* *Tuesday*; all the *Effoin* Days in *Easter* Term fall on *Sunday*, except *Craftin* *Assensionis*; and so also do all of *Trin* Term, except *Craft* *Sec* *Trin*.

The *Effoin*-days falling on *Sundays*, and held on *Mondays* are *Quind* *Pas*, *Tres* *Pas*, *Mens* *Pas*, *Quinq* *Pas*, *Oct* *Trin*, *Quinden* *Trin*, *Tres* *Trin*.

And note further, That in the *King's Bench*, all Proceſs both before and after Judgment, upon *Latitat*, *Alis*, *Plures*, *Bill of Middle*, *Distingas nup* *Die*, *Habeas* King's Bench.

Of Returns.

Habeas Corpus sup Cepi Corpus, & Habeas Corpus ad fac, & Rec, must be returnable at Days certain, and may be so made upon any Day in Term, which is (**dies Juridicus**) *pr' post* any of the aforementioned Returns.

And note, That the same Day of the Week that every Term begins, is a sure Day to make Writs returnable upon, in *B. R.* through all the Returns of every such Term (except the last Return.)

Same Day
Term be-
gins, Writs
to be return-
able.

*Dies non Ju-
ridicus.*

But all non **Juridical** Days must be avoided, as *Sundays, All-Saints All-Souls,* on the First and Second of Nov. in *Michaelmas Term*; The Feast of the Purification the Second of February, in *Hillary-Term*; *Ascension-day* in *Easter-Term*; and *Midsummer-day* in *Trinity Term*. (if it so happens) are not **dies Juridici** in the *King's Bench*.

Note also, If you make your Writs in the *King's Bench* returnable upon the *Essoin-day* of any Return in the Term-time, as you may do; you must also express the Day of the Week certainly, as *die Jovis in mense sed Michis, die Jovis in Crō Animarum, &c.* but this is seldom used but upon Trials, and Writs of Enquiry, in order to get some Advantages in that Term: If your *Essoin-day* happens on a *Sunday*, and therefore your Writ is returnable on the *Monday* after, you say *die Lune pr' post mens' S. Michis*, and not in *mens' S. Michis*. But the Form in the *Common Pleas* is a *die S. Michis, &c.* So

So that all Proceſs by Bill in *B. R.* is returnable at a Day certain, naming the Day of the Week, viz. apud *Westm* die Lune in, (but generally die *Jovis* pr' post) *Crastino purificationis beate Marie*, or the like. But if the Proceſs is by Original, then 'tis *cozam nobis* (naming neither the Day of the Week nor the Place) in *Crastino purificationis beate Marie ubicunque tunc fuerimus in Anglia*.

Note, also, that the Writs of the King's Bench returnable *ubicunque*, as in *Crō scđ Trin ubicunque*, &c. in *Octab scđ Trin ubicunque*, &c. and the like, are Writs grounded upon Originals out of *Chancery*, or upon Writs of Error out of the *Common Pleas*, and out of Inferior Courts, Proceſs to the Outlawry, *Retorn habendum*, *Capias in Witherham*, *Audita Querela*, *Accedas ad Curiam*, and such like.

So generally in the *Common Pleas* all Original Writs in Actions are returnable *C. B.* upon a Return, as in *Crastino scđ Trin*, a die scđ *Michis in tres Septimanas*, &c. and so all Proceſs and Proceedings thereupon.

But all Writs and Actions in *C. B.* not by Originals out of *Chancery*, and Proceeding thereupon, as Attachments of Privilege, Bills against Privileged Persons, Prohibitions, and the like, are returnable, and have Continuance to Days certain, as die Lune in mense *Pasche*, die

Jurisdiction and Authority

die Martis pr' post mensem Pasche, &c.

The Authority and Jurisdiction of the Court of *King's Bench*.

THe Jurisdiction of this Court is general, and over all *England*, and hath Conusance of both Criminal and Civil Causes, being divided into a Crown-Side and a Plea-Side.

The Crown-Side determines all Criminal Matters, wherein the King is Plaintiff, as Treason, Felonies, Murders, Rapes, Robberies, Riots, Breaches of the Peace, and all Causes prosecuted by way of Indictment, Inquisition or Information, and into this Court, Indictment from all inferior Courts, and Orders of Sessions may be removed by *Certiorari*, &c.

The Plea-Side holds Pleas of all Personal Actions, prosecuted by Bill or Writ, as Actions of Debt, Detinue, Covenant, Accounts, and of all Actions of the Case, either upon Promises, Trover and Conversion, Words, Penal Statutes, and all other personal Actions, and likewise real and mixed Actions, as Ejectment, Replevin, Trespass *quare clausum fregit*, Waste, &c. and against any Person in the Custody of the Marshal of the Court, as every one Sued here is supposed to be; and in all personal Actions against any Officer, Minister or Clerk of the Court. This Court may examine and correct the Errors of *B. C.* and other inferiour Judges

Judges and Justices; it can Reverse a Judgment given in the *King's Bench* in Ireland; it can repeal the King's Letters Patents, by *Scire Facias*; it granteth a *Habeas Corpus*, on Motion, to relieve Persons wrongfully imprisoned, restores Free-men unjustly disfranchised, and may bail any Person whatsoever where bailable by Law.

The Court of *King's Bench*, had originally no Jurisdiction in any Action of Debt or Covenant, unless one of the Parties had the Privilege of this Court, or the Defendant was in Custody of the Marshal, for some Trespass, or Criminal Matter, and in that Case they had Authority to hold Plea of any such Action, but they could not issue their Process against a Person who was at large, and hold him to Bail, in any Case of that Nature: To supply this Defect in the Reign of King *Charles II.* they introduced a Clause in the Bill of *Middlesex*, and Writ of *Latitat*, (which are their first Process) called an *Acetiam*, whereby the Defendant was to answer to a Bill to be exhibited against him in that Court, by the Plaintiff, in a Plea of Debt or Covenant, as the Case happened to be; and by this Method they held the Defendant to Bail, in an Action, in which otherwise they could have had no Authority to take Bail, and continue so to do at this Day.

The Judges and Officers, &c.

The Judges and Officers of the Court
of *King's Bench*.

The Judges. **T**HE Judges are the Lord Chief Justice, and three other Judges.

The Officers of the Crown-Side, are

The Clerk of the Crown.

The Secondary of the Crown-Side.

The Clerk of the Rules there, and eight other inferiour Clerks who attend in the Crown-Office, and act as Attornies, for the Dispatch of Business.

On the Plea-Side, are

The Prothonotary, or Chief Clerk of the Court, who is Master of the *King's Bench* Office, and hath his Secondary, who executes his Office, and his Clerks are the proper Attornies here who subscribe all Writs, and enter up all Declarations, Pleas and other Proceedings in his Name, *viz. Ventris*.

The Master
of the King's
Bench Of-
fice.

The Secondary, who is commonly called the Master, constantly attends the Sitting of the Court, to receive Matters referred to him by the Judges, to be by him examined and reported to the Court; he signs all Judgments, taxes Costs, and informs the Court in Point of Practice.

He

He hath also a Deputy, who keeps the Deputy Stamp for signing all *Latitats, habeas Corpus, Certioraries, Scire facias Procedendo's, Elegit, Restitution', Habere facias Possessionem & Seisinam, Supersedeas, Prohibition;* he also keeps Remembrances thereof, so that you may know if any one of those Writs be made out, by Searching with him: Also all Writs returned, postea's, Writs of *Error*, Special Bail after they are accepted and Affidavits of the Plaintiffs Debt, for Issuing Process of Ten Pounds or upwards, are filed in this Office; he generally receives all Money ordered to be paid into Court.

The *Custos Brevium* is the Chief Officer belonging to this Court, whose Office is to receive and keep all the Writs, and to put them on the Files every Return by it self, and at the End of every Term, to receive of the Master all the Records of *Nisi prius*, called the Postea. Custos Brevium.

The Clerk of the *Nisi prius* examines and seals, all Records of *Nisi prius*, for Trials at the Assizes, and for *London* and *Middlesex*, and is Clerk of the Effoins and Warrants of Attorney, and Clerk of the Treasury where all the Records of this Court are filed; and from him you take Numbers for Rolls; all Copies of Judgments, and other Proceedings on Record. Clerk of the Nisi-prius.

Clerk of the Papers. The Clerks of the Papers receive all special Pleas, Demurrers and Pleadings signed by Counsel, and make up the Paper Books thereof, which the Plaintiff's Attorney always bespeaks; and they give a Rule on the Side of the Book for the Defendants Attorney, to bring it to him again, to be entered in four Days, or else Judgment to go by Default; and they constantly attend the Court, read all Affidavits, Records, and Proceedings there, and enter down in their Book, the Names of the Causes that are to be argued.

Clerk of the Declarations. The Clerk of the Declarations; with him are left all Copies of Declarations, where the Defendant's Attorney is not to be found, and he makes an Alphabetical Paper of such Declarations, that the Defendant's Attorney may search for, and have the same delivered to him; with him are also filed a Copy of all Declarations against Prisoners, and in many Cases, Declarations engrossed on Parchment.

Signer of Bills of Middlesex. The Signer of the Bills of *Middlesex* keeps a Book of Entry of the Names of the Plaintiffs and Defendants, in all such Writs, and files all Affidavits of the Plaintiffs Debt for Issuing such Bills of *Middlesex*, for Ten Pounds or upwards, where the Defendant is to be arrested.

Clerk of the Rules. The Clerk of the Rules takes Notice of all Rules and Orders made in Court, except those of the Crown-Side

Side, and afterwards draws them up, and enters them in a Book at large, for which he has eight Pence, and for the Copy of each Rule four Pence if in Term, and eight Pence out of Term; also he files all Affidavits used in Court, and makes Copies at four Pence *per* Sheet, and with him are given all Rules of Course, as to Answer and Reply, or Rejoin, and on *Postea's*, Writs of Enquiry, *Scire facias*, &c.

The Clerk of the Errors, allows all Writs of Clerk of the Error, and makes *Supersedeas* thereupon, Errors, into what County you please; he also makes *Transcripts* of Records, to be carried either into the Exchequer-Chamber, or *House of Lords*.

Note, *There is a particular Clerk for the House of Lords.*

The Clerk of the Common Bails, and Clerk of the *Posteas*, files the Bail-Peices, and marks Bails. the *Posteas*, &c. and he or his Deputy attends in the *King's Bench* Office for that Purpose; and with him you file all Affidavits of the Service of the Process (for common Bail) on the Defendant, if he does not appear.

The Clerk of the Docquets enters all Clerk of the Judgments, Issues and Proceedings in Docquets, this Court; he keeps *Docquets* of all such Judgments and Entries, and with him you may find if any Judgment be entered, or any Record filed, and the Number-Roll thereof; he keeps a Book wherein

wherein you enter your Commitments, and Surrenders, and another Book for Entring your general Issues.

The Filazers.

Here are also *Filazers* in this Court, among whom the Counties are divided who make the Mean Proceſs after the Original, in Suing to the Outlawry; and have the Benefit of all Proceſs and Entries thereupon; the Person chiefly uſed is the *Filazer*, and *Exigentor* for *London* and *Middleſex*; Affidavits of the Debt are filed with him, he makes out all Special Writs on Originals, and with him you enter your Appearance, or give Bail to ſuch Writs.

The Maſter of the Seal-Office.

The Maſter of the Seal-Office, who keeps the Great Seal for Sealing all Writs, iſſuing out of this Court.

The Maſhal

The Maſhal of the *King's Bench*, or his Deputy, ought always to attend the Court, to receive into his Cuſtody, ſuch Priſoners as ſhall be committed; and Note, every one ſued in this Court, is ſuppoſed in the Declaration to be in his Cuſtody; *but by the Stat. William and Mary*, the Plaintiff may declare againſt Priſoners in other Gaols.

The Cryer.

The Cryer makes Proclamation of ſummoning and adjourning the Court, calls Non-ſuits, and ſwears Jurymen, Witneſſes, &c.

The Tipſtaff.

There are Tipſtaffs who attend each of the Judges in Court, and at their Chambers, and they take Perſons into Cuſtody by Rules of Court, or a Judge's Warrant.

The Poſt

Of

Of the Laws of England.

IT is not amiss that our Young Clerk should be informed, at least in general, wherein consists the Law which he is to practice.

Towards which Purpose he may observe, That the Municipal Law of *England* consists of three Parts :

First, The *Common Law*, which is nothing else but the general Customs of the Common Kingdom, which were in Force before *Law.* the Coming in of *William* the Conqueror, and never were, nor yet are collected or reduced into Writing, at least by any publick Authority.

Secondly, *Particular Customs* of certain Places, which only in those Places obtain Customary. the Force of a Law: As the Customs of *Law.* *Kent*, where the Lands which they call *Garvelkind-Lands*, by that Custom descend to all the Heirs Males in equal Proportion; and several other Customs in Force only in that County. The Customs of *London*, which are very numerous: The Customs of Manors, by which some Lands descend to the youngest Sons; this Custom is called *Borough-English*. And these private or particular Customs differ from *Common Law* in this, That they only pass for Law in those Places where they have been received and allowed for Customs beyond the Memory of Man. Whereas

the *Common Law* is the general Customs in Force all the Kingdom over, unless altered by Act of Parliament, and not restrained to one particular Place.

Statute Law. Thirdly, The *Statute Law*, or Acts of Parliament ; which are Bills passed by both Houses of Parliament, with the Royal Assent thereto (and is Superior to both the other Laws, either to explain, alter or annul the old, or enact new Laws.

And these are all comprehended in this Dyftich.

*Jus commune vetus, mores, consulta Senatus:
Hæc tria jus statuunt, terra Britanna, tibi.*

Civil and
Canon
Law.

And it may perhaps be said, That Part of the *Civil Law* and the *Canon Law*, are also a Part of the Laws of *England*, they being in Force so far as they are consistent with the Law of the Land in Causes litigated in the Spiritual Courts, and Courts of Admiralty ; but not being in Force in our Courts of Common Law, we do not take Notice of them as the Municipal Laws of the Land.

Reports. Also adjudged Cases in approved Reports, are generally held for Law in the Courts of Justice ; and even the *Rules of Court* do pass for Law in the Courts where they are made ; at least they must be looked upon so by the Clerks and Practisers. As for Instance ; If an Attorney do not plead in Time according to the Rules of the Court, Judgment and Execution shall often go against his Client without Remedy.

Of

Of Actions and Arrests.

BY Stat. 12. Geo. cap. 29. it is enacted, No Arrest
that in all Cases where the Cause under 10 l.
of Action does not amount to the Sum
of Ten Pounds or upwards in this
or any other superiour Court, or to the
Sum of Forty Shillings or upwards, in
any inferior Court, and the Plaintiff shall
proceed by way of Process against the
Person, in such Case the Defendant, or
Defendants, are not to be arrested, but
must be personally served, within the Ju-
risdiction of the Court, with a Copy of Defendant
served with
Copy of Pro-
cess.
the Process, and if the Defendant does not
appear at the Return of the Process, or with-
in four Days after, the Plaintiff upon Affida-
vit made (of such personal Service) and filed
in Court, may enter a common Appearance,
or file common Bail for the Defendant, and
proceed thereon as if such Defendant
had entered an Appearance, or filed
common Bail himself; but if the Cause If 10 l. or
above, Affi-
davit made
thereof.
of Action shall amount to Ten Pounds or
upwards, Affidavit shall be made and filed
of such Cause of Action, which Affida-
vid may be made before any Judge or
Commissioner of the Court, out of which
such Process shall issue, authorized to
take Affidavits in such Court, or else be-
fore the Officer who shall issue such Pro-
cess, or his Deputy, and for such Affi-
davit one Shilling over and above the
Stamp Duties shall be paid, and no more,
and the Sum or Sums specified in the Affi-
davit,

K's Bench. davit, shall be endorsed on the Back of the Writ or Process, for which Sum or Sums so endorsed, the Sheriff, or other Officer, to whom such Writ or Process shall be directed, shall take Bail, and for no more ; but if any Writ or Process, The Sheriff shall issue for Ten Pounds or more, and shall take no Affidavit and Endorsement shall be made as aforesaid, the Plaintiff shall not proceed to arrest the Defendant, but shall proceed in the same Manner as is directed, where the Cause of Action does not amount to the Sum of Ten Pounds in a superior Court, or Forty Shillings in an inferior Court ; this Act to continue in Force five Years, (from the 24th of June 1726.) and from thence to the End of the next Sessions of Parliament.

Peers, &c.
not to be
arrested,
and how to
proceed a-
gainst such.

Next you must consider whether the Defendant be liable to an Arrest ; for Peers of the Realm, Ambassadors and their Servants, (and Members of the House of Commons, and their Servants, during the Time of Privilege) are not to be arrested. Corporations and Companies cannot be arrested ; but against these you must proceed by *Distringas*, of which more hereafter.

Attornies,
how to pro-
ceed against
them.

Also Clerks of the Office, and Attornies, and privileged Persons belonging to the Courts of Justice, are not to be arrested, but must be sued in another Manner ; for if they are arrested, they may plead their Writ of Privilege, and come off without Bail. Against these you are to file a Declaration, of which you must deliver

deliver them a Copy, and they must plead K's Bench. the same Term, if you deliver it in Time, and give Rules. And so it is, if a Clerk or Attorney be Plaintiff, the Defendant must give a Plea the same Term and can not imparle to the next, if the Declaration be delivered in Time, and Rules given, though the Action be for Debt on a Bond or Case, and not Fees; and many unexperienced Practisers have been caught for not knowing this Rule, and their Clients taken in Execution when they least feared it.

The Clerks in Chancery are sued in the Petty-bag Office. Plead the same Term at the Suit of an Attorney.

And you must not only consider the Persons that are to be arrested, but also the Places where they live: For Instance; a Latitat in common Form is not in Force in *Wales*, nor in the *Counties Palatine*, neither is it in Force in the *Cinque Ports*, or their Dependancies. So that if the Suit be against any living in these Places, you must make out a Latitat with a special Direction to such Place, or you may proceed by *Quo minus* out of the *Exchequer*.

The Form of a Latitat into the County Palatine of Chester.

Georgius secundus (&c.) *Cam'ario n'ro Com' Palatini n'ri Cestr' sive ejus locum i'bm tenenti salutem Cum Vic' n'ro Middx' nuper p'cepimus* (&c. as in a Latitat to) *Lat' & discurr' in Com' Palat'. Cestr' Fo' vobis precipimus quod per bre' n'rum sub sigil' Com' n'ri Palat' p'd' debo modo conficiend' & Vic' Com' Cestr' dirigend' mandavimus fac' eid' Vic' quod capiat p'd' C. D. si invent' fuerit in ball'ia sua & eum salvo* (&c.)

Directions to Com' Pal' Lanc'. *Cancellario n'ro Com' Palatini n'ri Lancastrie sive ejus locum i'bm tenenti* (&c.)

To Com' Pal' Durham. *Reverendo in Christo patri W. providentia divina Dunelm' Episcopo sive ejus locum i'bm* (&c.) *ideo vobis precipimus quod per breve vestrum sub sigil' Episcopat' vestri debo* (&c.) *Vic' ejusdem Episcopat' Palat' Dunelm' dirigend'* (&c.)

If to any of the *Cinque Ports* or their Members the Direction is, *Constabular' castr' n'ri de Dover seu ejus locum i'bm tenen' salutem* (&c. as in a common Latitat). The *Cinque Ports* are *Hastings, Romney, Hith, Dover, and Sandwich*.

You

K.'s Bench.

A Special *Capias*, wherein the Action is set forth at large.

Vide post

312. the Method of Suing out these Writs and Proceeding thereon.

You may also in this Court have a *special Capias* by way of *Original* against the Defendant, in order for a Trial the same Term it is returnable, provided such *Capias* be returnable the first Return in *Hill'* or *Trin'* Term, or the first or second Return in *Easter* or *Michaelmas* Term. You draw a *Precipe* or Instruction for the Filacer, wherein the Action is set forth at large as in a Declaration. But you may make out the *Capias* yourself for Expedition, and carry it (with the *Precipe*) for him to sign. It must be returnable *coram nob'*, as in *Octab' S'ci Hill' ubicunque* (&c.) and not *die p'x post Octab'*.

Bill Middx'.

So, then taking it for granted, that the Defendant is liable to an Arrest, and that he doth not live in any of these exempted Places, and that the Plaintiff is not a Clerk, or Attorney of the Court, (for then he may have an Attachment of Privilege to arrest the Defendant) in such Case, if the Defendant live in *Middlesex*, the First Process of the Court is generally a Bill of *Middlesex*, which is a Precept of the Court, and not the King's Writ, nor in his Name, returnable at a Day certain; it hath no Teste, nor is it used but where the Plaintiff is to proceed by Bill without Original Writ: This Precept is to * Arrest the Defendant in *Middlesex* only, and not elsewhere: But if the Defendant live in *London*, or in any other County, then you must make out a *Latitat* directed to the Sheriff, or Sheriffs of that Place; which *Latitat* supposeth a Bill of *Middx'* to have been first sued out.

* If the action be Bailable, and Affidavit made of the Debt, otherwise a Copy of the Writ is to be served on the Defendant.

Latitat.

But for the better Understanding of the Nature and Reason of this Bill of *Middle-*

sex

sex, we shall repeat something of the an K's Bench. ancient Practice of the Court which originally followed the King, and was kept where-ever he was in *England*; and that is the Reason, that when you sue by Original, whereof you will herein find Original. some Instructions in the Title Ejectment, then all your Writs must be returnable *ubicunq; tunc fuerimus in Augt*, and not *apud Westmonasterium*, which ancient Practice is still sometimes very necessary, pursuing the old Method used before the Court was settled at *Westminster*; after which Settlement this Bill of *Middlesex* was given to arrest Persons that lived in *Middlesex*, and if they could not be found there, the Sheriff returned a *Non est inventus*, and thereupon a *Latitat* issued to take the Defendant in any other County; so that the *Latitat* was in the Nature of a *Testatum* Bill of *Middlesex*, and did always suppose a Bill of *Middlesex* to be taken out and returned before; and so it is recited in the *Latitat*, as you may observe by the Word *Testatum* therein, though the Taking out of the Bill of *Middlesex* thereupon hath been long since omitted.

And here you must observe, that tho' it is generally called a Bill of *Middlesex*, yet it may happen to be a Bill of any other County: For Instance, when the Court of *King's Bench* was held at *Oxford* by Reason of the Visitation, then it was a Bill of *Oxford*, and so supposed in the *Latitat*, and not *Uic Midd*; and also observe, that the ancient Practice was, that the Plaintiff's Declaration

Bill of *Middlesex* may happen to be a Bill of any other County.

K's Bench. Declaration, which is also called a Bill
 (as in the Record of *Risi prius*, (viz.)
 Protulit hic in Cur' tunc ibm quandam
 Billam suam, &c.) being engrossed in
 Parchment, was filed in the Office (as it
 is still used in many Cases); and very of-
 ten the Return of the Bill of *Middlesex*
 was endorsed upon it: So that when the
 Proceeding is not by Original, nor by
Distingas, which is against Peers of the
 Realm, Corporations and Bodies politick;
 nor against Clerks of the Office, and At-
 tornies and Prisoners, the first Process
 generally used is this Bill of *Middlesex*;
 the Form whereof follows.

The Form of the Bill of *Middlesex*.

You may
 put four De-
 fendants in
 one such
 Writ.

Middi' N. **P**recept' est *Uic* quod capiat
 A. B. si &c. Et eum salvo, &c.
 ita quod heat corpus ejus coram Dño Rege a-
 pud *Westm* die *Mercurii* p' post tres sep-
 timanas Sed *Michs* (the Day of the Re-
 turn) ad respond' C. D. de *Plito* transg't
 Et heat ibi tunc hoc Precept.'

p Bill. *Ventris*

And on the Back-side write the Clerk's
 Name that sues it out, and the Day of
 the Month.

On this Process if the Plaintiff
 has not made Affidavit, or the Debt
 be under Ten Pounds, the Defen-
 dant is not to be arrested, but you
 must serve him personally (within the
 County of *Middlesex*) with a Copy of
 this Precept; and if the Defendant does

not appear at the Return of the Writ, K's Bench or within four Days after, the Plaintiff (upon Affidavit being made of such personal Service, which Affidavit shall be filed gratis) may file common Bail for the Defendant, and proceed thereon in the same Manner, as if such Defendant had himself filed common Bail; but if the Action be for Ten Pounds or above, and Affidavit has been made as is before directed, the Sum mentioned in such Affidavit must be endorsed on the Back of the Writ or Process, in order to hold the Defendant to good Bail. Then after the Words *De placito insgr*, you must add,

* Or 20,
30, 40l.

Ac etiam Wille ipsius C.D. & suz p̄fat' A.B. according as
pro decem* Libris de de ho scdm Cons' Cur the Sum is
ipsius Dñi Regis coram ipso Rege exhibend' in the Affi-
Et heat, &c. (ut supra.) davit.

Or if there be any other Special Cause etiam against
for Bail, it must be added with an Executors,
acetiam Wille; for Trespas alone will or Admini-
not hold the Defendant to Bail. As strators, or
Heirs at
Law.

If for Trespas and taking away Goods, Trans'.
say, Pro capone & asportacione Bonoz &
Catalloz ipsius C. ad dampnū vigint' libr' scdm, &c. as before.

Pro detencion Bonoz & Catalloz ipus Detinue.
C. ad Valenc' 40l. scdm, &c.

Pro conversione & disposicione Bonoz & Trover.
Catalloz ipsius C. ad Valenc' 40 l.

Pro

K's Bench. Pro Fractōne Conveniō ad dampnū
 ~~~~~ ipius C. 60 l. scdm cons', as before.

Covenant. Acetiam Will ipius C. Etus pstat A. pro  
 Assumpsit. 20 l. sup' assump' secund' cons', as before.

Stat. 13. Car. But in Case the Cause of Action is for  
 2. cap. 2. Words, or Ejectment, or Trespass only, no

Battery. Special Bail is required. Yet if it be a dan-  
 gerous Assault and Battery, as the breaking  
 a Man's Skull, the Indangering the Loss  
 of an Eye, or a *Mayhem*, the Plaintiff  
 may make Affidavit before one of the Ju-  
 stices, setting forth his Case, and the Judge  
 as he sees Cause, will order the Defen-  
 dant to be held to Bail, in such Sum as he  
 shall think fit; and then 'tis usual to insert  
 in the Writ ac etiam bille ipsius, C. D. Etus  
 ipsum A. B. p verba con' vulnerō & malerac-  
 tōdā ad dampnū ipsius C. 20. l. Scdm, &c.  
 or as the Case is; and the Plaintiff's Attor-  
 ney ought to be careful, not to omit such  
 holding the Defendant to Bail, lest after  
 the Trial the Defendant being cast should  
 absent himself.

An Affidavit  
 must be  
 made of the  
 Facts.

*An Affidavit to obtain a Special Acetiam.*

A. B. of W. in the County of S.  
 • Clerk, maketh Oath that on *Thurs-*  
*day*, the—day of—last past, he this  
 Deponent going to view, whether the  
 Tithe-hay, on the Lands of C. D. of W. a-  
 foresaid, were ready to be set forth, the  
 said C. D. did then in the said Field,  
 without any reasonable Cause, in a vio-  
 lent Manner, assault, beat, and throw  
 this



this Deponent on the Ground, this De-K's Bench.  
 ponent making no Opposition, or Re-  
 sistance against the said C. D. but this  
 Deponent being rescued by some Per-  
 sons present from the said D. the said D.  
 did again, as soon as he got loose from  
 the Persons that rescued this Deponent,  
 a Second time assault, throw down, beat  
 and kick this Deponent several times a-  
 bout the Head and Body; so that the  
 Blood gushed out at his Ears, which oc-  
 casioned this Deponent the Loss of his  
 Speech and Hearing for some Time, as  
 to render him incapable of performing  
 his Duty in the aforesaid Parish, he be-  
 ing Minister of the same; and this Depo-  
 nent further saith, that he the said D.  
 hath often declared, that it was no Crime  
 for any Man to kill or destroy this De-  
 ponent.

A. B.

Jurat' 20 Octob. 1725.

Coram me E. F.

The Judges  
 Order there-  
 upon.

Let a *Latitat* be Issued forth  
 against C. D. with an *Ac-  
 etiam* of 20 l. at the Suit of  
 A. B. upon this Affidavit.

Dated 20 Octob. 1725. E. F.

Having

K's Bench.



Having made your Bills of *Middlesex* on a Piece of Parchment, (but you may buy Blanks ready for filling up) you must also make a Note on Paper, which you are to carry with your Writ unto the Office when you get such Writ Signed ; in this Manner.

The Note  
for the Of-  
fice.

b m

*Widdr'. n. Bill p C. D. & A. B. ret' die*  
*Mercurii pr' post tres Sept' Sed Michs.*

Pleadwell.

B. M. fig-  
nifies *boni*  
*manu captos*,  
or good Bail.

If it require Bail. you must mark the Paper with a B\* over the Defendants Christian Name, and an M over his Sirname, and a Stroke under both, as you see above.


The Bill is to be signed at the Bill of *Middlesex* Office, and the Note, and Affidavit of the Debt to be left there ; for which Signing you pay in the Term-Time Six-pence, in the Vacation Ten-pence.

A Special  
Warrant to  
Charge any  
Person in  
Custody of  
an Officer, or  
a Warrant  
upon an O-  
riginal, *Fi*.  
*fa. &c.* is  
2 s. 4 d.

Upon this Bill you must have a War- rant at the Sheriff's of *Middlesex* Office which costs Four-pence.

And if in *Westminster*, the Warrant from the high Bailiff, 2 s. 4 d.

If the Defendant be not taken upon the first Bill, you may make an *Alias* ; and if not upon that, then a *Pluries* ; only say- ing *Precept' est Ali' sicut alias* (or *sicut pluries*)

pluries) tibi precept' fuit quod capiat, &c. for K.'s Bench the Signing of which Writ, you pay but  Two-pence if within a Year after the first or second Bill sued out, setting down the Time that the first Bill of *Middlesex* was made out.

You may save the Statute of Limitations, by suing out this Bill of *Middlesex* within six Years after the Debt, &c. contracted, and getting of it returned *Non est inventus* by the Sheriff, then enter it on a Roll, and file the *B. M.* with the Signer of the *Latitats*, and carry the Roll to the Clerk of the *Docquets* who will enter it, and you afterwards file the Roll as in common Cases.

The Entry of a Bill of *Middlesex* on the Roll, to save the Statute of Limitations is thus.

*Middx* ff. **P** Recept' est Uic quod Capiat A. B. & E. H. si invent' fideine in ballia sua & os salvo custod' ita quod heat cor- pora eorum coram Domino Rege apud Westm die Mercur' pr' post tres Septian' scd Trin ad respondend' C. D. de placito Transgr' aceti- am Wille ipsius C. versus p'fat' A. pro 20 l. sup' assumption' secundum Cons' Cur' ipsius Dom' Regis coram ipso Rege exhibend' & heat ibi tunc hoc p'cept'.

p Bill'.

Ventris.

Ad quem diem coram Dom' Rege apud Westm veni p'dict' C. in propria p'sona sua & obtulit se vers' p'fat' A. in placito p-  
E dia'



K.'s Bench. vid' Et Vic' Gidox videt O. P. Mil &  
 R. S. Mil Retorid quod p'dia' A. non est in-  
 ventus in Balliva sua.

### The Form of a Latitat.

Stamp tre-  
 ble 6 d.

**G**orgius Dei Gra Magna Britan  
 & Hibernie Rex Fidei De-  
 fensor, &c. Vic' Somerset  
 salutem Cum Vic' nro Gidox  
 nup' p'cepimus qd' capet C.  
 D. & E. F. si invent' fuissent  
 in Balliva sua & eos salvo cus-  
 tod' ita quod heret corpora  
 eor' coram nobis apud Westm  
 ad certum diem jam p'terit' ad  
 respondend' A. B. de placito  
 transgt, \* ac etia' Bill' ipsius  
 A. versus p'fat' C. pro decem  
 Libris de debito secundum  
 Cons' Cur' nostre coram Po-  
 bis exhibend' Diculque Vic'  
 diem ill' nobis retorid' Quod  
 non sunt invent' in Balliva  
 sua super quo ex parte p'reb'  
 A. in Cur' nostra coram no-  
 bis sufficient' testat' est Quod  
 p'reb' C. & E. latit' & discurre  
 in Com' † tuo Is tibi p'cipi-

You may put four Defen-  
 dants in one Writ; but if  
 there be but one Defendant;  
 and your Blank is made in  
 the Plural Number, you may  
 put in *John Doe* or *Richard  
 Roe* as a Defendant, but take  
 no Notice of them in the  
 Note for the Office.

\* If it be only in Trespass  
 you must leave out the *Ac  
 etiam*. Otherwise you must  
 put it in as is before direct-  
 ed in a *Bill of Middlesex*.

See after *ad respond'* A. B.  
*Qui tam, &c.*

n' Gidox ad  
 p'reb' C. & E.

† If the County have two  
 Sheriffs, it must be *Com' v'ro  
 F'o vobis p'cipimus*, and so the  
 rest in the Plural Number.

mus qd' Capias eos si invent' fuerint in Bal-  
 liva tua & eos salvo custod' ita quod habeas  
 corpora eor' coram nobis apud Westm die  
 Mercurii prox' post tres septimanas sci'  
 Michis' ad respondend' p'fat' A. de placito &  
 Bill'

Bill' p<sup>re</sup>dict Et habeas ibi tunc hoc t<sup>em</sup>p<sup>or</sup>e Teste The Teste of  
 R<sup>ic</sup>to Raymond, M<sup>ag</sup> apud Westm<sup>on</sup> duode- this Writ  
 cimo . . . die Anno Regni n<sup>ost</sup>ri decimo tertio. may be made  
 any Day in

Term, that  
 Ventris. is a Day in  
 Court, but

the usual way is, in Term-Time, if to make the Teste thereof  
 the first Day of the Term: But if it be made in the Vaca-  
 tion, then make the Teste thereof the last Day of the prece-  
 ding Term. 2. Salk. 700.

If it be against several Defendants, for several unequal  
 Sums in Case and Debt, then it must be, *Ac etiam Bill' ipsius*  
*N. vers. p<sup>re</sup>fat' Johannem pro 20 Libris super assumpton' & versus*  
*p<sup>re</sup>fat' R. pro 30. Libris de deb' sedm' &c.* If against several Defen-  
 dants in Case, you say, *Ac etiam Bill' ipsius N. vers. p<sup>re</sup>fat' Joh' pro*  
*20 l. super Assump' ac ver. p<sup>re</sup>fat' K. pro 30 super Assump' &c.* But if two  
 are severally bound in a Bond of 20 l. then the *Ac etiam* must  
 be *pro 20 l. de debito separatim*, and the same of a Note: *Pro 20 l.*  
*sup. Assump' separatim.*

You must make a Note on Paper in  
 Court-Hand, for the Office, thus;


Dom<sup>us</sup> R. s La p A. B. versus C. D. the Office.  
 b m. Precipe for

E. F. ret' die Mercurii prox' post tres  
 Mich.

Pleadwell,  
 marking it as above, if the Cause require  
 Bail.

If it be for a Qui tam, upon a Penal  
 Statute, you say, *Ad respondentem A. B. Qui*  
*tam p<sup>ro</sup> Nob qm<sup>us</sup> p<sup>ro</sup> seipso in hac parte ses*  
*quitur de p<sup>re</sup>dicto trans' (only).*

Note, That upon a Qui tam in C. B.  
 some Philazers insist for a Fine to be paid  
 the Cursitors, but not in B. R.

K.'s Bench,  


And the Af-  
 fidavit of  
 the Debt.

The *Latitat* filled up, you carry it with the Note to the *King's Bench* Office in the *Temple*, where your *Latitat* must be signed, for which you pay 2 s. 6 d. and you must \* leave the Note with the Signer.

Being signed, you carry it to the Seal-Office, and he who seals for the *King's Bench* will seal it, and stamp the Day on the Back, for which you pay 7 d.

The next Thing is to get a Warrant upon it from the Sheriff of the County.

The Entry of a *Latitat* on the Roll, to prevent the Statutes of Limitations occurring.

Angl. ff. **D**ominus Rex mandavit Vic' Suffex breve suum clausum in hæc verba ff. Georgius Dei gra' Magn', &c. Vic' Suffex salutem Cum Vic' nostr' Midd', &c. *and so on to & habeas* ibi tunc hoc Breve Teste Robt' Raymond Mill' apud Westm' vicesimo-nono die Julii anno Regni nostri duodecimo. Ventrís. Ad quem diem *the Return of the Writ* coram dicto domino Rege apud Westm' ven' prædict' A. B. in propria persona sua Et Vic' Com' Suffex videlt' Johannes M. Bar' re-torn' quod prædict' Elizabetha non est invent' in balliva sua Et eadem Elizabetha non ven' Ideo sicut alias præcept' est Vic' quod caperet prædict' Elizabetham si invent' fuerit in balliva sua & eam salvo custod' ita quod haberet corpus ejus coram dict' domino Rege apud Westm' die—prox' post' *the Return of the Alias* latitat ad respondend' præfat' A. de placito prædict' idem dies dat' est præfat' A. ibm', &c.

If the Defendant cannot be arrested upon the *Latitat*, you may sue out an *Alias Capias*; and if not taken upon that, then a *Pluries Capias*.



The Form of an *Alias Capias*.

**C**orgius Dei Græmagne Britan Franc  
 & Hibernie Rex Fidei Defens, &c.  
 Nos salutem Precipimus tibi sicut alias  
 tibi precepimus Quod capias C. D. & E. F.  
 si invent fuerint in ballia tua & eos salvo  
 custod ita quod heas corpora eorū coram nob  
 his apud Westm die \* . . . . pr' post . . . .  
 Ad respond A. B. de placito trāsgē Acetia  
 bill ipsius A. & B. pstat C. & E. pro decent  
 Libris de debito secundum Cons' Cur nre  
 coram nobis exhibend Et heas ibi tunc hoc  
 Wm T. R. Raymond Mil apud Westm  
 die . . . . Anno rñd nre Duo decimo.

Ventris.

And indorse the Name of the Clerk that  
 sues it out, and the Day of the Month.

The *Pluries Capias* is the same with the  
*Alias*, only saying, *Precipimus tibi sicut plu*  
*ries tibi precepimus, &c.*

You must make a Note for the Office  
 as for the *Latitat*,

Soms ff. Als' p A. B. & C. D. & E. F.  
 res' die . . . pror' post . . .

Pleadwell.

You must insert on the Bottom of your  
*Precept* when the Original *Lat'* issued out. For signing

The *Alias* and *pluries Capias* must be the *Alias* or  
 signed at the King's Bench Office (for which *Pluries* no  
 you pay no Fee or Duty. Fee is paid.

K.'s Bench.

After your Alias or Pluries signed, you get them sealed, as above, and pay 7*d.* for each.

Quars.

*Note*, you may continue your Pluries Capias from Term to Term, until the Defendant be arrested; but observe, that if the Latitat was not renewed within five Terms after it was taken out, then you cannot renew it by Alias or Pluries; but you must sue out a new Latitat.

*Note*, When there are Three or Four Defendants in one Writ, and some of them Special, and some not; as if your Directions be for a Bill or Latitat for A. B. against C. D. p 10*l.* de debito E. F. in Trespass G. H. p 17*l.* 10*s.* 8*d.* sup assumption J. K. p conversion & asportation Bonorum & Catallorum ad dampnum 100*l.*

In Debt.

Then after the Words, de placito trās gē you say Acetiam Bill ipsius A. B. vsus pstat C. D. p decem Libris de debito ac vsus pstat G. H. p septemdecim Libris decem Solidis & octo Denar sup assumptionem ac vsus pstat J. K. p conversion & asportation Bonorum & Catallorum ipsius A. ad dampnum Centum Librarum sedm Cons' Cur' nre coram nobis exhibens, &c.

Trover.

Case.

If two of the Sums be alike in Debt, or on Promise, as A. D. against C. D. and E. F. p 40*l.* Debt, and G. H. in Trespass.

Then say, Acetiam Bill ipsius A. vsus pstat C. D. & E. F. p 40*l.* de Debo separatim secundum, &c. or p 40 sup assump', &c.

In Covenant say, In p<sup>re</sup>ito convention' *K.'s Bench.*  
 fract' ad dampnum ipsius A. B. 301.

*Note,* If any of your Defendants live within a Liberty where the Sheriff may not enter, you must get the Sheriff to direct his Warrant on your Writ to the Bailiff of such Liberty, who may execute it; but if the Bailiff of such Liberty do not execute it, then you must at the Return of your Writ, get the Sheriff to return a Mandavi Ballivo thereon, and thereupon you may make out a Writ called a Non Omittas, directed to the Sheriff, and upon that Writ the Sheriff's Officers may, upon the Sheriff's Warrant made out thereon, enter and execute the Warrant within such Liberty. *Mandavi Ballivo.*

The usual Practice is, you sue out a Lat. or B. M. in to the County where the Liberty is, and a Non Omittas at one and the same Time, but make the Lat. returnable before the Teste of the Non Omittas, which must be tested the fourth Day inclusive of the Return of the Lat'.

### The Form of the Non omittas.

**G**orgius Dei Gratia, (tc.) Vic Soms  
 salutem Precipimus tibi quod non omittas propter aliquam Libertatem in Cond tuo quin eam Ingredias & Capias C. D. & invent' fuerit, tc. as in an Alias Capias.

If you sign the Non Omittas at the same Time with the Latitat, you pay nothing for signing thereof, but only 2s. 6d. for the Lat'.



*Bail-Bond.*

Bail.

**W**hen the Sheriff arrests the Defendant, he by his Officers takes a Bail-Bond, for the Defendant's Appearance at the Return of the Writ.

By the Act 12 Geo. c. 29. the Sheriff shall take Bail for no more than the Sum endorsed on the Writ.

But if the Defendant is served with a Copy of the Process, the Action requires only a common Appearance, and then an Attorney may cause common Bail to be filed for the Defendant at the Return of the Writ. Or if the Defendant neglect to appear, or cause Common Bail to be filed, the Plaintiff, on Affidavit being made and filed in Court of the personal Service of the Writ, may within 4 Days after the Return, enter a common Appearance, or file common Bail in the Defendant's Name, and proceed thereon. The Form of a common Bail-piece you will find after.

But where the Defendant is arrested on any of the aforesaid Writs and doth not appear, that is, doth not file Special Bail, as the Writ requires, then the Plaintiff's Attorney must call on the Sheriff for a Return of the Writ, that is, an Answer endorsed on the Back of the Writ, whether the Defendant be arrested or not: If the Sheriff make Delay, as it often happens, when the Bail-bond is not brought into his Office, or when the Officer hath taken insolvent or insufficient Bail, or hath let the Defendant escape, then the Plaintiff's

tiff's Attorney must give a Rule with the K.'s Bench, Clerk of the Rules, for the Sheriff of the County to return the Writ, and serve the Sheriff, or his Deputy with a Copy; if the Sheriff doth not return the Writ at the Time mentioned in the Rule, the Plaintiff's Attorney may move at the Side-bar to have the Sheriff amerced, shewing the Rule wherewith he was served, and the Clerk of the Rules, who always attends there, will draw up the Side-bar Rule, and then you may estreat the Amerciaments into the *Crown-Office*, which costs Two Shillings a-piece; but the usual Course is to shew the Sheriff the Rule, and tell him you will estreat the Amerciaments, if he doth not return the Writ. If he doth still delay you, you may summon him before a Judge to shew Cause, or at last move the Court against him.

When you have a *Cepi Corpus* returned, if there be no Appearance or Bail, you may have a Rule to bring in the Body, if you do not like the Bail which the Sheriff has taken, and amerce him the first Time 40s.—and moving at the Side-bar double the Amerciaments from Time to Time, till you have enough to answer the Debt, which you may also estreat; the Rule to be drawn up with the Clerk of the Rules will cost each Time 3s. which must be served on the Sheriff or his Deputy from Time to Time, or you may upon the Sheriff's not returning the Writ upon the first Rule, upon Affidavit of Service of such Rule, move for a peremptory Rule

for

**K.'s Bench.** for him to return the Writ at a certain Day, which if he disobeys, the Court upon Affidavit of Service will grant a Rule for him to shew Cause why an Attachment should not issue against him, which seems to be the most speedy way of proceeding: If the Defendant doth not yet put in Bail, you may have a *Habeas Corpus* on the *Cepi*, (which see after) or you may proceed by *Amerciaments* as before, and so you may, if the Sheriff do not return the *Habeas Corpus*: But generally the Sheriff having taken good Bail (upon a Rule given on the *Cepi* when the Rule is out) will assign you the Bail-bond, and many Times upon Request without a Rule, and then you may arrest the Defendant and the Bail, at the Suit of the

\* This Practice is altered by 4 & 5 Ann. See after.

Coroners.

\* Sheriff on that Bond. But you must not put an *attestam* Bill in the Writ, though the Penalty of the Sheriff's Bond be never so great, for there is no Bail required at the Sheriff's Suit: You must also observe, that if the same Sheriff be still in his Office, your Writ must be directed to the Coroners of the County, and they must grant you a Warrant on the Writ, for which they will take 2 s. 4 d. a Name; and so ought your *Venire fac.* to be to the Coroners: But if a new Sheriff be sworn, then you may make your Writs to the new Sheriff and proceed as in other Cases.

But this Practice is altered by the Stat. 4 & 5 Ann. Sect. 21. for Amendment of the Law, whereby it is enacted, That if any Person or Persons shall be arrested by any



any Writ or Process, issuing out of any of K.'s Bench Her Majesty's Courts of Record at *Westminster*, at the Suit of any common Person, and the Sheriff or other Officer taketh Bail from such Person, against whom such Writ, Bill or Process is taken out, the Sheriff or other Officer at the Requests and Costs of the Plaintiff in such Action or Suit, or his lawful Attorney, shall assign Bail-Bond to the Plaintiff in such Action the Bail- assigned to bond or other Security taken from such Plaintiff or Bail, by indorsing the same, and attesting his Attorney. it under his Hand and Seal in the Presence of Two or more credible Witnesses, which may be done without any Stamp, provided the Assignment so indorsed be duly stamped before any Action be brought thereupon; and if the said Bail-bond or Assignment, or other Security taken for Bail be forfeited, the Plaintiff in such Action after such Assignment made, may bring an Action and Suit thereupon in his own Name; and the Court where the Action is brought, may by Rule or Rules of the same Court, give such Relief to the Plaintiff and Defendant in the Original Action, and to the Bail upon the said Bond, or other Security taken from such Bail, as is agreeable to Justice and Reason; and that such Rule or Rules of the said Court, shall have the Nature and Effect of a Defeasance to such Bail-bond, or other Security for Bail.

\* The Stamp is double 6d.

May bring Action on the Bail-bond.

And the Court by Rule give the Plaintiff Satisfaction.

Such Rule to be as a Defeasance.


But

**K.'s Bench.** But since the Act of 12 *Georgii*, the Bail are not to be arrested on the Assignment of the Bail-Bond, but you make a Copy of the Writ on the Bail-Bond, and personally serve the Defendant and his Bail.

The former Act also provides, That the Attorney for the Plaintiff or Demandant in any Action or Suit, shall file his Warrant of Attorney with the proper Officer of the Court where the Cause is depending, the same Term he declares; and the Attorney for the Defendant or Tenant shall file his Warrant of Attorney, as aforesaid, the same Term he appears, under the Penalties inflicted upon Attornies by any former Law, for Default of filing the Warrants of Attorney.

If you are for the Defendant, put in Bail above, and give Notice you will move the Court to tax the Costs on the Bail-Bond, &c. If you are for the Defendant in the Action, then the best Course to stay Proceedings on the Bail-Bond is, first, To put in special Bail; and then give Notice that you will move the Court, that the Secondary may tax the Costs on the Bail-Bond, and \* alledge that you are ready to receive a Declaration in the Original Action, and to plead and try it that Term, and not to delay the Plaintiff. Upon such Notice, and a Motion to the like Purpose, the Court will make a Rule; draw up that Rule, and carry it to the Secondary, and he will appoint a Day when both the Attornies shall attend him; and the Plaintiff's Attorney being served with the Rule and Appointment, brings in the Bill of Costs, which the Secondary taxes, and

\* You need not alledge it in the Notice.

the Defendant must forthwith pay and receive a Declaration. 

Many Times the Attornies agree these Things amongst themselves, without troubling the Court.

If the Attorney for the Plaintiff will not agree, you may summon him before one of the Judges of the Court, who will make an Order to the same Purpose at his Chambers; provided you apply in Time, that is, before the Plaintiff has lost the Advantage of a Trial, or obtaining Judgment against the Principal, and putting the Plaintiff in as good a Condition as if the Bail-Bond had not been assigned.

If the Action be in *London* or *Middlesex*, andailable, you must within Four Days after the Return of the Writ (exclusive of the Appearance-Day) put in Bail above, or the Bail-Bond may be assigned.

If the Defendant is arrested in any Action within the Distance of Forty Miles from *London*, and no Bail is put in above, or Bail-Peice transmitted within Eight Days after the Return of the Writ, to one of the Judges, the Bail-Bond may be assign'd. But in Case it be above Forty Miles Distance from *London*, Bail must be put in above, or the Bail-Peice transmitted within Fifteen Days after the Return of the Writ, otherwise the Bail-Bond may be assigned.

When you have put in Special Bail, you must give Notice to the Plaintiff's Attorney the Names, Places of Abode, and Additions of their Trade or Vocations, that the Plaintiff



**K.'s Bench.** Plaintiff may know how to enquire after them.

**Exception.**

Twenty Days are allowed to except against Bail after Notice, and you should add or justify in Eight Days after such Exception.

Bail cannot be justified before a Judge at his Chambers, except by Consent, or for Necessity in the Vacation, and in the latter Case it ought to be justified again in Court, in Term.

If the Plaintiff excepts against the Bail, you must desire the Judge's Clerk before whom the Bail was taken, to bring up the Bail-Piece to Court, for which you pay him 2 s. 6 d. and then justify your Bail in Court; but you must give the Defendant's Attorney Notice of such Justification, and an Affidavit must be made of the Service thereof, and if the Defendant is not in Court, the Bail must each swear they are worth double the Sum the Action is for.

If the Defendant appear in Person, must declare in 3 Days, by Stat. 8 Eliz. cap. 2.

Sometimes a catching Practiser will bring the Defendant in Person into Court, and then he appears in Person, and so it is mentioned on the Bail-Piece; and therefore it is fit, when you have Notice of Bail to be given in Court, that you do attend: For then, if the Defendant doth appear in Person, the Secondary who takes the Bail, will give you Notice, if you be present; and you must declare within three Days, or else may be *Non pros'd* with Costs.

But

But here note, That if the Defendant K.'s Bench. be held to Special Bail, and that he doth not really owe the Plaintiff 10 l. the Defendant may have a Summons from any of the Judges of the Court of King's Bench, for the Plaintiff to attend the Judge to shew his Cause of Action; then the Defendant's Attorney must make a Copy of the Summons, and deliver it to the Plaintiff's Attorney, shewing him the Original at the same Time: And the Defendant's Attorney must attend the Judge at the Time limited in the Summons; and if the Plaintiff doth not make Oath or prove that the Defendant owes him 10 l. the Judge will order the Defendant to file common Bail, and all Proceedings on the Bail-Bond to stay, and the Defendant's Attorney must file a common Bail-Piece; if the Plaintiff doth expressly make Oath there is 10 l. due to him, the Defendant will not be admitted to make Affidavit to the contrary: But if the Plaintiff's Attorney do not appear on the first Summons, the Defendant must take out a second, a third, and serve them, and attend. And it is often of great Consequence to the Defendant not to be held to Bail.

The Form of the *Habeas Corpus* upon a *Cepi*.

**G**orgius Dei Gratia, &c. Vñ N. saltem  
 Precipimus tibi qđ corpus A. B. in  
 prisoſa nra sub custođ tua detent' put tu  
 ipse per retoꝝn tuu in Cur' nostra coꝝam  
 nobis alias inde miss. teipsum oñasti habeas  
 coꝝam nobis apud Westm die—— ( &c. )  
 ad respondend C. D. de placito tñsgr' ac  
 etiam Will' ipsius C. versus prefat' A. p Cen-  
 tum libris de debito scđm cons' Cur' nre  
 coꝝam nob exhibend Et heas ibi tunc hoc  
 brebe Teste R. Raymond, Mil apud Westm  
 28. die Novembꝝis Anno Regni nostri de-  
 cimo t'cio.

Sometimes the Sheriff will return *Languidus in Prisoſa*, whereupon you may have  
 an *Habeas Corpus licet languidus detent'*.

The Form whereof is as follows

**G**orgius Dei Gratia, &c. Vñ N. saltem  
 Precipimus tibi quod corpus A. B. per  
 te Capt' & in prisoſa nra sub custođ tua licet  
*Languidus* detent' sicut per retuꝝn tuum  
 in Curia nostra coꝝam nob miss' nobis  
 liquet manifeste habeas coꝝam nobis apud  
 Westm die——ad respond C. D. (as be-  
 fore) Et habeas ibi tunc hoc brebe, &c.

*Note*, At the Return of all or any of  
 these, you may amerce the Sheriff, as  
 before observed.



*In what Cases Special Bail is required.*

K.'s Bench.

**N**Ote, in the Court of *King's Bench*, if the Defendant be indebted to the Plaintiff by Bill, Bond, or otherwise, to the Value of 10 *l.* or upwards, you may force him to put in Special Bail, as the Act 12. *Geo.* directs.

But in Case for Words, Ejectment and Trespass, Bail is not insisted on: Except in some special Cases, and if the Court so Order.

Neither is Special Bail required against Heirs Executors or Administrators in any Action brought against them, unless in such Case where they have wasted the Goods of the Testator.

By the Rules of this Court, Special Bail is required in all Causes of Removal, be it by *Habeas Corpus*, Writ of *Privilege*, *Certiorari*, or the like, except where the Defendant is sued as Executor or Administrator; for then he is not to give any Special Bail upon the Removal. *Note*, The Defendant is not obliged to give the Plaintiff's Attorney Notice of Bail, being put in on the *Habeas Corpus*; and if the Plaintiff does not take out a Rule for better Bail in 28 Days Time, the Bail must stand.

## *Of Common Bail.*

**I**F the Defendant be served with a Copy of the Process, he must appear at the Return; and the Manner of Appearance in the *King's Bench* is by Bail, which is

F either

K.'s Bench. either Common or Special, as the Case requires ; and it is to be written on Parchment, and filed in the Office if Common ; and before a Judge, if Special, as is before observed.

Which *Appearance* or *Common Bail*, by the Stat. 5 and 6 *William 3. cap. 21.* and 9. *Wil. 3. cap. 25.* the Defendant was to enter or file within Eight Days after the Return of the Process on which the Defendant was arrested, on Penalty of 5 *l.* to be paid to the Plaintiff ; for which the Court could immediately award Judgment, and the Plaintiff might take out Execution.

But now by the Statute 12 *Geo.* if the Defendant is served with a Copy of the Process, and does not appear within Four Days after the Return thereof, the Plaintiff, on Affidavit being made of such Service, and filed in Court with the Clerk of the Rules, may file common Bail for the Defendant, and proceed thereon as if such Defendant had filed common Bail himself.

The Bail-Piece is usually cut out in the Shape and Proportion as follows.

A Com-

Of Bail.

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K.'s Bench

A Common Bail-piece upon *Cepi Corpus*, or  
Appéarance.

De termino scd Michs Anno 13. Georgii  
Regis.

London H. A. E. de, &c.

Tradit in Ballum sup Cep  
Corp

Johi Doe de Lond Yeoman.

Rico Roe de eod Yeoman.

Pleadwell }  
Attorn }  
}

Ad sec' C. D.

The Term  
the Writ is  
returnable  
of.

Note, Stamp  
double, 6 d.

Note, These Writs, Notes and Bail-pieces,  
must be in Court-hand.



K.'s Bench.

~~~~~ The Special Bail-piece before a Judge, is made thus upon a *Cepi Corpus*.

This Bail
per regulam
Cur' ought
to be filed,
(i. e. taken
from the
Judges
Chambers)
and left with
Mr. Hawley,
the Signer of
the *Latitats*,
within 20
Days if the
Plaintiff ac-
cepts it.
No Bail to
be put in for
a greater
Sum than in
the Process.

De Termino, &c.

Soms'. R. A. W. de C. in Cord p'd
Peom

Tradit' in Ballium sup
Cepi Corp D. C. de
F. &c. [naming the
Persons that are Bail,
their Additions and
Place of Abode.]

Pleadwell?
Attorn'd }

Ad testam
G. H.

Cut in the same Shape as the
former.

Note, Double
12 d. Stamp.

Thus

Of special Bail.

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K.^s Bench:



Thus upon a *Habeas Corpus* before a Judge.

By Rule of
Court 28
Days Time is
allowed for
Exception.

De Termino, (Et.)

Somers A, A. B. de C. in Comd p^r
Peon^d

Tradit^r in Vallium su^u
Heas Corp^s D. C. de
..... Gen^d &
F. C. de

Pleadwel^r
Atto^rid^s

Ad lectam Quer^r
in querel^r.

Note, Stamp
double 12 d.

No Executor or Administrator, on *habeas Corpus*
shall put in Bail, but that in all other Actions Bail
shall be put in; Scandalous Words, and little
Insults excepted, *per regulam Cur^r*.

K.'s Bench.

Note, It is enacted *Stat. 4. W. & M. c. 4.* That Bail may be taken in the Country before a Special Commissioner for that purpose authorized by the Judges of the *King's Bench, Common Pleas, and Barons of the Exchequer* respectively.

In the *King's Bench* there are Orders put forth by the Judges for that Purpose, which are as follow.

Orders to be observed by Commissioners for taking Special Bail in the Country upon Actions and Suits depending, or to be depending in his Majesty's Court of King's Bench.

Orders for
Bail before
Commissioners.

First, it is ordered, That the Bail-piece shall be fairly drawn and ingrossed in Parchment, in the Form following, viz.

A. B. Attorn?
pro Def. }

Widdr N. Johannes Doe
de Illinge in Comd
pō Gen' Traditur in
Ball super Cepi Corp'
Johanni Denn de Hack-
ney in Comd pō Gen'
Rich Fen de Highgate
in Comd pō Gen'

Capl & Cognit . . .

die . . . 1699. coram ad lectam

A. B. un Com-

missionar', &c.

Richardi Doe.

And

And in taking of the Recognizances, ^{K.'s Bench.} these Words must be used, (*viz*)

You (calling the Bail by their Names) do jointly and severally undertake, that if the Defendant [naming his Name] shall be condemned in this Action at the Suit of the Plaintiff [naming his Name] he shall satisfy the Costs and Condemnation. or render himself into the Custody of the Marshal of the Marshalsea of the Court of King's Bench, or you will pay the Costs and Condemnation for him.

Words to be used.

And if any Bail be given upon any Action or Actions removed out of any inferior Court by Writ of *Habeas Corpus*, and returnable in the Court of King's Bench, then instead of writing *super Capi Corpus*, as before, you must write *sup h^o de Hab Corp*; and instead of writing the Plaintiff's Name (as aforesaid) you must write, *ad sectam Quer in Querel*; and the Cognizors must undertake that if the Defendant be condemned at the Suit of the Plaintiff or Plaintiffs in the Plaint, that he shall satisfy the Costs and Condemnation, or render his Body; &c. as aforesaid.

Capi Corp.
Hab' Corp.

Secondly, It is ordered, That the Affidavit for the due taking of every such Bail shall be made either before some Judge of the King's Bench, to whom the Bail shall be transmitted, or before some Person who shall have Power to take Affidavits in Matters and Causes depending in the said Court.

Affidavit to be made.

Thirdly, it is ordered, That all Bails taken by any Commissioner within the Distance of Forty Miles from the Cities of

K.'s Bench. *London and Westminster*, shall be transmitted to the Lord Chief Justice of the Court of Bails to be transmitted *King's Bench*, or to one of the Justices of in 8 Days, if the said Court, within Eight Days after the taking thereof, and all Bails Miles, in 15 taken by any Commissioner above the if above 40. Distance of Forty Miles from the said Cities of *London and Westminster*, shall be transmitted within Fifteen Days after the Taking thereof, unless all the said Justices shall be in their Circuits, and then as soon as any one of them shall be returned to his Chamber in one of the *Serjeants Inns*.

Book to be kept.

Fourthly, Also every Commissioner is to have a Book kept purposely for entring the Names of the Defendant and his Bail, and of the Plaintiff, as it is in the Bail-piece, and the Time of taking thereof, and the Name of him by whom such Bail shall be transmitted; and also the Name of the Attorney for the Defendant. And,

Plaintiff to except against the Bail in 20 Days.

Fifthly, It is farther ordered, That the Plaintiff's Attorney shall be at Liberty to repair to the Commissioners Book for the Names of the Bail, to the end that they may enquire of the Sufficiency of them; and if they are found insufficient, they may except against them within 20 Days after the said Bail is transmitted, and Notice to the Plaintiff or his Attorney, of the taking thereof: And in that Case the Defendant must either put in better Bail, or the Cognizors of such Bails must justify themselves in open Court, either by Affidavit taken before such Commissioner that took the said Bail, or by Oath made in Court, or before one of the Judges of the said Court.

G. Eyre.

W. Dolbin.

J. Holt.

Three Sorts of Bail pieces taken before Commissioners are as follows.

The first Bail-piece upon *Cepi Corpus*.

Berks' H. A. B. de R. in Com p̄s Gen.

Tradit' in Ballium sup
Cepi Corp C. D. de
... in Com D.
Gen & C. F. de ...
in Com ... Gen

Harvey }
Attozid }

ad sedam
R. R.

Capt' & cogid 12 die
Bail, Anno Dom
1726. de bene esse
cozam me J. S.
un Commissionar.

Stamp don-
ble 12 d.

K.'s Bench.

The Second Bail upon a *Habeas Corpus*
thus :

Being cut in Berks A. A. B. de R. in Comd p^o Gen
Shape as the
foregoing.

Tradit^r in Ballum sup
brevi de hab Corp
C. D. de in
Comd . . . Gen C. F.
de . . in Comd . . Gen
Ad lectam
Quer in queret.

Parbey }
Attozid }

Double 12 d. Stamp. }
Capt' & cogid 12 die
Mati, Anno Dom
1726. de bene esse
coram me J. S. un
Comissionar'.

The third Sort is upon a *Certiorari*, thus:

Berks' N. A. B. de R. in Comd pō Gen. Cut in Shape
as the First.

Tradit in Ballum sup
bze de Certiorari, C. m.
de . . . in Comd pō Gen
& C. F. de . . . in Comd
pō Gen.

Harvey }
Attorn }

ad sectam
Quer in queret.

Capt' & cogn 12 die
Bail, Anno Dom
1726. coram me
A. B. un Com
missionar.

Double 12 d.
Stamp.

The Three last Bail-pieces must be carried to be filed at the Judge's Chamber, with an Affidavit of the due taking, to be made by one that was present.

The Form whereof follows.:

In

K.'s Bench.

In Banco } Intr. R. R. quer' & A. B. Def.
Regis.

T. B. of D. in the County of E. Gent.
 maketh Oath, That the Recognizance of Bail or Bail-piece hereto annexed, was duly acknowledged by, &c. (naming the Bail) before J. S. Esq; the Commissioner who took the same in this Depo-
 nent's Presence the 12th of May last past.

Jurat' 5 Junii
1726. Coram

T. B.

This Affidavit may be sworn before the Commissioner, and sent up; or if the Party be above at Term, then before a Judge of that Court.

Of delivering Declarations.

IF the Plaintiff's Attorney does not deliver a Declaration to the Defendant or his Attorney, either the Term the Writ is returnable of, or some time in the succeeding Term, the Action is discharged, and the Plaintiff may be *non Prof'd*; for the Defendant is not obliged afterwards to accept of a Declaration.

And observe, That by a Rule of Court the Defendant's Attorney is to pay the Plaintiff's Attorney for a Copy of the Declaration.

Declaration when delivered at 4 d. per. K.'s Bench. Sheet.

A Declaration may be delivered *de bene esse*, till Bail above is put in and justified.

Note, That in Case you cannot find the Defendant's Attorney to deliver him the Declaration (or if he refuses to pay for it) you may leave it in the Office with the Clerk of the *Narr's*, and proceed thereon against the Defendant; but you must give the Defendant's* Attorney Notice of the Declaration, and the Proceedings so soon as you can find him.

* If you cannot find the Attorney

If a Declaration be delivered after the Effoin-day of *Michaelmas - Term*, and before *Crastinum Animarum*, or after the Effoin-day of *Easter - Term* and before *Mensem Pasch.* and Rules are given to plead, the Defendant must plead to enter, that is, must plead 2 Days before the Effoin-day of the succeeding Term.

give the Defendant Notice.

But if a Declaration is delivered against a Prisoner in the *King's Bench*, he is obliged to plead as soon as the Rules are out.

See the Rules for delivering Declarations, and declaring against Prisoners at the End of the Declarations.

If Bail be put in upon *Habeas Corpus* returnable *immediate*; if it be in *Hillary* or *Trinity Term*, and the Declaration be delivered 8 Days before the End of the Term, then the Defendant must plead to enter.

But if it be in *Michaelmas-Term*, and the Declaration be delivered before *Crastinum Animarum*, or in *Easter-Term* before *Mensem*

K.'s Bench. *Mensem Paschi*. then the Defendant must plead to try the same Term.

If one come in upon *Habeas Corpus* and Bail be given thereon, and the Plaintiff does not declare against him in Two Terms including the Term he was brought in, the Action and the Bail are discharged, and the Plaintiff *Non Prof'd* with Costs.

Next we will see how to make up Issues, because it doth sooner happen to a young Clerk than other Business.

See Decla-
rations to-
wards the
End of K.'s
Bench.

For we will suppose that your young Clerk shall be little employed in drawing Declarations, except upon Bond or in Ejectment, and the like; of which there are some Precedents after in this Treatise.

But he may have much to do in making up Issues, ingrossing Records, and the like, and therefore we will hasten to them.

Of Memorandums and Issues.

SUPPOSE you have an Issue to make up in *Hillary-Term*, from a Declaration in *Michaelmas* [or some other preceding] Term, — You write in Court-Hand at the Top of your first Sheet of Paper thus, according to the Term.

De Termino Scd Hillarii
Anno Rnd Dad Georgii nunc
Regis Magne Britanniæ, &c.
duodecimo.

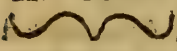
Ventris.

Soñs ff. **M**emorandum quod alias scilicet *Memorandum*
 Terminandi Sancti Michis [Sec] Trin Pasche, &c. as the Declaration is of another
 of] ult' pñt' coram Dño Rege apud Westm Term.
 veni A. B. (naming the Plaintiff in the
 Declaration) p C. D. (naming the Plain-
 tiff's Attorney) Attorn sui, Et protulit
 hic in Cur' dict' Dñd Regis tunc ibidem
 quandam Billam suam versus C. F. (na-
 ming the Defendant, if an alias dict' inserc
 it) in custod Mar, &c. de plito * Debi
 [Trans', Trans' & insult', Transgr' super
 Calum, Conventiõ fract', &c. as the Case
 is] Et sunt pleq de prosequend scilicet Johan-
 nes Doe & Richardus Roe, que quidem Billa
 sequitur in hec verba ff. Soñs ff. A. B. ques-
 rit de C. F. in custod Mar Parese Dñd
 Regis coram ipso Rege existend de plito qd
 reddat ei, &c. (verbatim to the End of the
 Declaration) Et inde producit Sedam, &c.

* Note, When your Declaration is de
 plito qd reddat, then say in your *Me-
 morandum* or Issue, de plito Debi;
 when pro eo videt, then say de plito
 tñgr' sup Calum; when in Trespass say,
 de plito transgr; when in Ejectment See the
 say, de plito Transgr & Ejectione fir, Narrs' after.
 me; when in Covenant say, de plito
 Conventiõ Fract'; when in Assault
 and Battery say, de plito Transgr &
 Insult', &c.

Then beginning a new Line after the
 End of your Declaration, you must
 enter your Imparlance thus:

Et

K.'s Bench. Et modo ad hunc diem scilicet diem Martis  is prior' post Octab Sed Hillarii [the Imparlance: first Day of the Term the Issue is entered] isto eod Terminio usque

But if the Declaration was delivered of *Michaelmas-Term*, the Plea of *Hillary-Term*, and you do not deliver the Issue before *Trinity-Term*, then you make it an Issue of *Trinity-Term*, and say *Et modo ad hunc diem, scilicet, the first Day of Trinity-Term*, and so on.

Note, If the Defendant's Attorney cannot be found, you may enter your general Pleas in a Book in the Office, which runs alphabetically, beginning with the Defendant's Name thus:

B. ads' A. Non Assumpsit, per Pleadwell; (you pay 2 d. for it.)

Or thus:

A. ads' B. supradict' script' Obl' non est factum, per Pleadwell. (And so of the like.)

* If in *London* or *Middlesex* it must be some small Time before the Trial, but the Clerk of the *Nisi Prius* will insert the Day at the examining of the Record.

quem diem ptes C. F. [the Defendant] hui licentiam ad Willam ptes interloquend & tunc ad respondend, &c. coram Dño Rege apud Westm vend tam ptes A. B. p Attorn suu pō qm pō C. F. p C. H. [the Defendant's Attorney] Attorn suu & idem C. F. defendibim & insur quando, &c. Et dicit quod ipse non debet pfac' A. B. predict' decem Libras, [the Sum mentioned in the Declaration] nec aliquam inde denar modo & forma pnt idem A. B. supius dñs eum querit, &c. Et de hoc ponit se super P'ziam am Et ptes A. B. silit, &c. Itō vend inde Int coram Dño Rege apud Westm die Lune p' post Octab Pur hie Marie Virginis, [The last Day of the same Term the Issue is made * up] Et qui nec, &c. Ad Recogn, &c. Quia tam, &c. Idem Dies Dat' est partibus pō ibm, &c.

&c.

Note, if the Defendant pleads Not guilty K.'s Bench. in Trespass, then after the Words (defensum & insur' quando, &c.) write, Et dic' qđ ipse non est inde Culpabilis Et de hoc pond se sup P'ziam, &c. as above. *Non Cul' in Trespass.*

Et dic' qđ ipse in nullo est Cul' de pre- In Case. missis supius ei impetit put p'dict' A. superius versus eund querit Et de hoc pond se sup P'ziam, &c. (as before.)

If the Defendant pleads Non Assump- Non Assump- sit, then after the Words quando, &c. Et sit. dic' qđ ipse non Assumpsit super se modo & forma put idem A. B. supius Blus eund querit Et de hoc pond se sup P'ziam, &c. as above.

Quando, &c. Et dicit qđ ipse de debito p'dicti Non est factu' virtute script' obl p'dicti onari non debet to a Bond. quia dic' qđ script' Obl p'dicti Non est factum suum Et de hoc pond se sup P'ziam Et p'dicti A. sicut Jo' (&c. ut in al.)

Thus is your Issue made up with a *Memorandum* when the Declaration is of another Term. See more of Issues after the Declarations.

But many Times the Issue is joined the same Term the Declaration is of, and then you must enter it thus:

Sonis' A. **M**emorandum qđ die Lune p' Memorandum post Octab Scd Hillarii, of the same [The first Day of that Term the Declaration is of] isto eod Termino coram Dño Rege apud Westm vend (the Plaintiff) p A. B. Attoznd suu Et p'ulic hic in Cur' *Term.*

K.'s Bench. *dic'* *Dñi Regis tunc iſtm quandam Billam*
 suam *ſus* (the Defendant) in custod *Mar̄*,
ſc. de *plito*, (*ſc.*) as in the foregoing *Me-*
morandum of another Term.

This is the usual Way, but it seems more proper to say after *Attorn̄ suū Et p̄fert hic in Cur' dic'* *Dñi Regis nunc hic quandam Billam suam*, (*ſc.*)

Note, If the Declaration be above Four Terms standing, then you say—*Memorandū qđ at scilicet Termio*, (*ſc.*) *Anno Regni Dñi Regis nunc* (naming the Term and Year) *coram*, *ſc.*

Plea.

Note, The *Memorandum* the same Term with the Declaration hath no *Imparlançe*, but after the Declaration you must enter the Plea thus, (beginning a new Line) *Et predictus* (the Defendant) *p A. B. Attorn̄ suū ven̄ & defend̄ vim & injur̄ quando*, *ſc.* & *dic̄it qđ ipe non Assumpsit*—and so on as it is in another which hath no *Imparlançe*.

You should enter your Issue before you seal your Record; however before the next Term: (If your Trial be after the Term, or at the Assizes, it is entred upon a Roll out of the Office:) *Vide Instructions* to enter up Judgments. [See after to give a Rule to enter the Issue, *ſol.*]

Having

Record.

Double half
Crown
Stamp each
Pres.

Placita.

* The first
Placita must
be the same
Term as the
Issue is of.

Then thus in small Court-Hand.

* If the De-
fendant be in
the County-
Prison, say,
*In Custod' Vic'
Com' D. ex-
isten' virtut'
brevis Dni'
Regis de La-
titat e Cur'
ipsius Dni'
Reg. coram ip-*

so Reg' apud Westm' in Com' Midd' emanan' de placito, &c. both in the Memorand' and Declaration: The same in Judgment by Nil Dic', &c. [See after.]

K.'s Bench. *Vita coram Dño Rege apud Westm de*
** Termino scd Trin Anno Reg Dñi*
Geor. nunc Regis Pagne Britan, &c. 12^o.

* The same
Term as the
Cause is to
be Tried.

And then beginning a new Line, enter a
Jurata as follows, in small Court-Hand.

But if by O-
riginal *usque*
a die Pasche
in xv. im dies
ubicunq; &c.

* *Mercur' 14*
die Martii a-
pud C. in Com'
pred.

If by Original in O^r
Pur' beat'
Mariæ Vir-
gin.

Soms, ff. **JUR'** int A. B. p Attorn suu
Quer & C. F. de p^rito trans
[as the Action is] ponit in respectu coram
Dño Rege apud Westm usq; diem [the first
of the next Term,] p^r post—Nisi Ju-
stic Dñi Regis ad Affias in Com' predia'
captend assign' prius die—[the * Day the
Affizes are held] apud—[the Place where
they are held] per formam Statut, &c.
ven' p defect Jur, &c. Ideo Uic heat corpo-
ra, &c. Idem dies dat' est partib⁹ predia'
ibm, &c. Et sciendum est quod hve dict Dñi
Regis inde—die [the Day of the Re-
turn of the Venire being the Teste of the
Distringas, and last Day of that Term
the Record is made] isto eod Termino co-
ram Domino Rege apud Westm deliberat de
Recordo Deputat Uic Com' p^ro in forma Ju-
ris exequend p^rito incumbend, &c.

Entry of a Writ delivered to the Sheriff's
Deputy in Court. (*Vide Dalt. Sher.*
fol. 456.)

Memozandum quod Justic Domini Res-
gis hic (tali die) isto eod Termino des-
liberaver J. D. Deputat' Uic Com' predia'
quoddam hve Domini Regis nunc etiam eid
Uic direct in forma Juris exequend, quod
quidm breve idem Deputat' hic in Cur' aper-
ruit. Cujus quidem hris tenor sequitur in
hec verba Georgius, &c. Thus

Thus is your Record ready for Sealing, and you may cut off the remaining Parchment within an Inch from the last Line.

But note, If your Cause is to be tried in *London*, your *Jurata* must be after this Manner:

London, ff. **J**UR' int' A. B. per Attorn'd suū Jurata in
 Quer' & C. D. de p'tito trans- *London.*
 gress' [as the Action is] ponit' in respectu
 coram Domino Rege apud Westm' usque
 diem [the very next Day after the Sittings,
 if in Term; if after Term, then usq' the
 first Day of the next Term, as] Mercurii
 pr' post tres septimanas Scti Mich'is. Nisi
 dilectus & fidel' Domini Regis Rob'tus Ray-
 mond Mil' Capital' Justic' Domini Regis ad
 p'lita in Cur' ipsius Domini Regis coram ip-
 so Rege tenend' assign' [if in Term say]
 prius die . . . pr' post . . . [if after Term
 say] prius die [the Day of Sittings] Jovis
 decimo tertio die Junii apud Guildhall Lon-
 don p' formam Statut', &c. veni p' defectu
 Jur', &c. Ideo Wic' heant corpora, &c. Ad
 dies dat' est paribus p'd' ibm, &c.

Note, The Et sciendum est quod hic, &c.
 it is not used for *London* as for the
 County.

See after for some special *Jurata's* at
 the End of the Issues in the King's Bench.

K.'s Bench.

*Jurata, Venire, Distringas.**Jurata in
Middlesex.*

IF your Action be in *Middlesex*, then say,
Plit dilect & fidel Domini Regis Rob-
tus Raymond Mil (et.) apud Westm pda'
in Com Middr in magna Aula Plitorum
ibidem p formam Statut, &c, (as before) but
instead of heant write heat.

In Order to a Trial to be had upon this
 Issue and Record, you must also make
 out a *Venire Facias*, the Form whereof
 is this:

Venire facias.

Q. If in Mid-
dlessex, &c. in
Term-Time.

Gregorius Dei Gra Magne Britan
lor, &c. Vic Soms' Saktem Precipimus tibi
quod Venire fac coram nobis apud Westm
die Mercur' prox' post tres septuānas Sed
Trinitatis [the last Day of the Term
Issue is made up] duodecim libos & legales
*hoies de * corpore Comd tui*
[by a late Act of Parliament]
quorum quilibet habeat decem
Libr' Terr Tentorum vel red-
dit per ann ad minus p quos
rei veritas melius sciri poterit
& qui nec A. B. Quer nec
C. D. aliqua affinitate attin-
gunt ad faciend quandam Jura-

* If the Cause be in
London, then make the
Writ, de corpore Com' vic',
&c. unless it be other-
 wise laid: And *Q.* if it
 ought not to be return-
 able the Day of the Sit-
 tings, if in *Term-Time*.

ta Patrie int partes pō de pto transgr [as
the Action is] Quia tam idem C. D [the
Defendant] quam pō A. B. [the Plaintiff]
int

int quos inde Contentio est posuer se inde in K.'s Bench.
 Jur ill' & heas ibi runc noia Jur illius & hoc
 bre T. Robto Raymond Mil apud Westm
 10 die Junii [the first Day of the Term]
 Anno Reg nostri duodecimo.

Ventris.

This Form was settled by 35 H. 8. c. 26.
 and by 4 & 5 Will. c. 24. each Juror to
 have 10 l. per Ann. and a Tales 5 l. per Ann.

Note, That by the Rules of the Court, See after.
 if the Plaintiff will not try his Issue after
 it is joined in such Time as he ought by
 the Course of the Court: In such Case
 the Defendant may make out the *Venire* by
Proviso, if he will, that he may free him-
 self if he can, of the Danger and Trouble
 he may be subject to by the Depending of
 the Action against him, and to recover
 his Costs for his unjust Vexation. In which
 Case the *Venire* is to run thus; after you
 come to in Jur ill', say, *Proviso semper* Proviso.
 qd si duo brev' inde tibi venerint unū eorū See after.
 tantum retorū & exequaris. Et heas, &c.

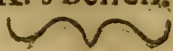
And it is to be observed, That in Acti- Stat. 7 & 8
 ons laid in *London* or *Middlesex*, the Defen- W. 3. c. 32.
 dant ought not to give the Plaintiff a Rule directs the
 to enter his Issues, or to try the Cause by Trial per Pro-
Proviso, the same Term Issue is joined, un- viso & form.
 less the Plaintiff hath first given the De-
 fendant Notice of a Trial that Term, and
 hath made Default: And that if the Action
 lie in the Country, the Defendant shall give
 the Plaintiff a Rule to enter his Issue, as
 of the same Term Issue is joined.

K.'s Bench. If the Issue has been delivered, and not tried, (it is said) If the Plaintiff intend to desist, 'tis not convenient to enter it on the Roll; for if it be not carried in, the Defendant, before he can carry it down by *Proviso*, must give the Plaintiff a Rule to bring in the Record; after which the Plaintiff hath the next Term to try it, before the Defendant can carry it down by *Proviso*; but if it be entred, and not tried, the Defendant may carry it down next Sessions after it is in the Office.

Again; If the Defendant give the Plaintiff a Rule to enter his Issue, (the Action being laid in *London* or *Middlesex*) the Plaintiff must bring his Record into the Office within Four Days after Notice of the Rule: And if the Action be laid in the Country, he must bring it in before the Continuance-Day of that Term, or in Default thereof a Nonsuit may be signed and entred, and Costs will be allowed the Defendant.

The Manner of entring a Rule for the Plaintiff to enter his Issue is thus:

THE Defendant's Attorney carries the Copy of the Issue to the Master of the Office, and desires him to give a Rule to enter the Issue, and he will write in the Margent of the Copy of the Issue, what Day he thinks fit; (for Example) *Mercur' post Octab Trin ad replicand & intrand erit*; Then carry this Rule to the Clerk of the Rules, and he will enter it, and
write

write under the Rule Intr'. Make a Co-K.'s Bench.
 py of the Issue at the same Time, and if 
 he do not enter the Issue by the Day limited,
 the Master will sign Judgment and tax
 Costs; you must enter the Issue upon a
 Roll of the same Term, and add & super
 hoc idem (the Defendant) per quod p̄d (the
 Plaintiff) ad p̄litum ipsius (the Defendant)
 replicaret & super inde p̄ Cur' Dom' Regis
 nunc hic dies inde dat est p̄fat' (the Plain-
 tiff) coram Dño Rege usque, &c. ad p̄li-
 tum p̄dia' replicand' idem dies dat est p̄re-
 fat' (the Defendant) and so enter the Con-
 tinuance to the Term when the Rule is
 given, then say, ad quem diem hic veni p̄d
 (the Defendant) per Attoꝝ suum p̄dict' Et
 dictum est eidem (the Plaintiff) p̄ Cur'
 dicti Dm' Regis nunc hic quod ipse replica-
 ret ad p̄litum p̄ed' & intraret erit' in p̄lito
 p̄dict' die, &c. Ita eodem Term' p̄cto in-
 cumben', &c. ad quem diem coram Dño
 Rege hic veni p̄dict' (the Defendant) per
 Attoꝝ suum p̄d Et p̄d (the Plaintiff) licet
 solempnit' Exa' non veni nec ad p̄litum p̄d
 (the Defendant) replicabit nec est h̄re suum
 p̄dict' versus eundem (the Defendant) ul-
 terius p̄secut' Iō coñs est quod p̄dia' (the
 Plaintiff) nihil capiat p̄ h̄re suum p̄dict'
 sed quod ipse & pleḡ sui de p̄s scit Johanes
 Doe & Richardus Roe sint in M̄ia Et
 p̄ed' (the Defendant) eat inde sine die, &c.
 Et ulterius coñs est quod p̄ed' (the Defen-
 dant) recuperat versus p̄fat' (the Plaintiff)
 p̄ mis & custag' suis per
 ipsum circa Defencon' sua in hac parte sus-
 tent

K.'s Bench. tent eidem (the Defendant) per cur dicti
 ~~~~~ **Dñi Regis** nunc hic iuxta formam Statuti in  
 humoi Casu inde nuper editi & p'bis' adju-  
 dicat Et Idem (the Defendant) heat inde  
 Executionem, &c.

## 2. Of the Continuance-Day.

Upon the Writ of Venire being sealed,  
 the Sheriff will return a Jury in a  
 Panel annexed to the Writ.

Upon which Panel, you make out a  
 Distringas Jurator after this Manner:

*Distringas  
 Jur.*

You only  
 Seal this  
 Writ.

**G**orgius Dei Gra Magni Britan Franc  
 & Hibernie Rex fidei Defensor, &c.  
 Vlic Soms' saltem Precipimus tibi quod  
 Distringas A. B. C. D. E. F. &c. (na-  
 ming all the Jurors, with their Additions and  
 Places of Abode, as they are set down in  
 the Panel) Jur sum in Cur nra coram no-  
 bis int A. B. Quer (naming the Plain-  
 tiff) & C. D. Defend. (naming the De-  
 fendant) per omnes Terras & Catalla sua  
 in ballia sua ita quod nec ipsi nec aliquis p  
 ipsos ad ea manud apponid donec aliud a nobis  
 inde fueris pcept Et qd de erit eorum nobis  
 respond ita quod heas corpora eorū coram  
 nobis apud Westm die — pr' post tres  
 septimanas Scd Michis (the first Day of  
 the next Term) \* vel coram Justic no-

If your Distr' stris ad Alias in Com tuo capiend' assigni,  
 be in London,

you say, Vel

coram dilect' & fidel' nro R. Raymond Mil' Capit' Justic' nro ad pla-  
 cita in Cur' nostra coram nobis tenend' assigni si prius die, the Day after  
 the Sittings if in Term, but if the Sittings are after Term, then  
 the first Day of the next Term, apud Guildhall London, per formam  
 &c. If the Distrin' be in Midd' then you must say, Coram dilect' &  
 fidel' nostro R. Raymond, &c. apud Westm' prad. in Magna Aula  
 placitorum ibidem per form' Stat. &c.

fi prius die . . . . (the Day that the Assi-K.'s Bench.  
 zes are held on) apud . . . (the Place where they are held) in Com̄ tuo p̄ed p̄  
 formam Statuti in humod Casu nuper edit  
 & provis' veni ad faciend quendam Juratam  
 patrie int partes p̄o de placito transgr (as  
 the Action is) Et ad audiend Judic̄ suū de  
 plur' defalt Et heas ibi tunc nomina Jur'  
 illius & hoc breve, Teste R. Raymond Mil  
 apud Westm̄ . . . die . . . last Day of the  
 Term) Anno rñd nrd decimo tñio,

Ventris.

You must next Seal this *Distringas*, and  
 get the Sheriff to return it; and if there  
 be an Occasion for a *Subpœna* for the  
 Witness (as commonly there is) you  
 must make it as afterwards.

*Note*, That by an Act of 7 & 8 Williel-  
 mi tertii Regis, for the Ease of Jurors, and  
 better regulating of Juries, it is enacted,

‘ That if the Plaintiff shall not proceed to  
 ‘ Trial of the Issue at the first Assizes after  
 ‘ the *Teste* of the Writ of Habeas Corpora  
 ‘ or *Distringas*, with a *Nisi prius*; That  
 ‘ then, and in all such Cases (other than  
 ‘ where Views by Jurors shall be directed)  
 ‘ the Plaintiff, or Demandant, whenever he  
 ‘ shall think fit to try the said Issue at any  
 ‘ other Assizes, shall sue forth and prose-  
 ‘ cute a new Writ of *Venire facias* directed  
 ‘ to the Sheriff in this Form.



K.'s Bench. *Quod de novo Venire facias coram, (tc.) duodecim libras & legales hoies de Corpore Venire de novo. Comd tui quoz quilibet heat decem librat' tert' tenitoz vel reddit' p annum ad minus p quos (tc.) Et qui nec (tc.)* after the ancient Manner ; ' That is to say, the Writ ' is to be in the same Form as the first, only adding the Words *De novo*.

' Which Writ being duly returned and ' filed a Writ of *Habeas corpora* or *Distringas*, with a *Placi prius*, shall issue thereupon for the ancient Fees, as in the Case ' of a *Pluries*, *Habeas corpora* or *Distringas*, with a *Placi prius* : Upon which the ' Plaintiff or Demandant shall and may proceed to Trial, as if no former Writ of ' *Venire facias* had been prosecuted or filed in that Cause; and so *toties quoties* as ' the Case shall require.

' And if any Defendant or Tenant shall ' be minded to bring the Issue to Trial by ' *Proviso*, (when by Course he may) he ' may, of the issuable Term next preceding such intended Trial to be had at the ' next Assizes, sue a new *Venire facias* to ' the Sheriff, in Form aforesaid, by *Proviso*, ' and prosecute the same by Writ of *Habeas corpora* or *Distringas*, with a *Placi prius*, ' as though there had not been any ' former *Venire facias* sued out or returned ' in that Cause ; and so *toties quoties*, as ' the Matter shall require.

But you must give notice you intend to try the Cause by *Proviso*.

And the Rule is, when you do not try the Cause the same Sitting in *London* or *Mid-*  
*dlesex*

*Alex*, and within the Term, you always K.'s Bench seal the Record *de novo*, unless it be at the Sittings after Term, and then the same Record and Jury serve, unless a Juror be withdrawn, which is often done upon a Reference or View. The Sittings after Term being accounted but one Day in Law though they are many.

*Note*, That in Prohibition, it's said, Either Party may carry down the Record ; so that it may happen that Two be carried at one Time ; *Domina Regina v. Sir Jac. Banks*, about *Trin. 3. Ann. Per Cur'*, That in Civil Actions the Defendant cannot carry down a Cause to Trial by *Proviso* 'till after Default in the Plaintiff, except in some Special Cases, as in *Quare Impedit*, Replevin and Prohibition, to have a Writ to the Bishop, Return, or Consultation ; and that there cannot be a Trial by *Proviso* in the King's Case, because there can be no Laches in the King : And the Court directed it for a Rule, That the Defendant should never carry an Indictment, removed hither by the Prosecutor, to Trial without Leave of the Court.

This Act also provides, that Jurors to 7 & 8 W. 3. serve upon the *Tales*, shall be Freeholders, or Copy-holders of the County, and returned upon some other Panel to serve at the said Assizes and attending in Court, and may be challenged by Plaintiff or Defendant, Demandant or Tenant, as if they had been impanelled upon a *Venire facias* to try the Issue.

*Note,*

*K.'s Bench.* *Note,* By the Act, for Amendment of the Law, reciting, That whereas great Delays do frequently happen in Trials by reason of Challenges to the Arrays of Panels of Jurors, and the Polls, for the Want of Hundredors ; for Prevention whereof, 'tis enacted, That every *Venire facias* for the Trial of any Issue in any Action or Suit in any of his Majesty's Courts of Record at *Westminster*, shall be awarded for the Body of the proper County where such Issue is triable. But this Act is not to extend to Appeals, Indictments, Presentments of Felony, Murder, or Treason, nor to Penal Statutes.

4 & 5 Ann.  
cap. 16.

*View by Jurors.*

Also it is enacted, That when a View of Messuages, Lands or Places in Question, shall be thought necessary by the Court, for the Jurors better understanding the Evidences that will be given upon the Trials of such Issues, in every such Case the respective Courts, in which such Actions shall be depending, may order special Writs of *Distringas*, or *Habeas corpora* to issue ; by which the Sheriff, or such other Officer to whom the said Writs shall be directed, shall be commanded to have Six out of the first Twelve of the Jurors named in such Writs, or some great Number of them, at the Place in Question, some convenient Time before the Trial, who then and there shall have the Matters in Question



on shewn to them by Two Persons in the K.'s Bench. said Writs named, to be appointed by the Court: And the said Sheriff or other Officer, who is to execute the said Writs, shall by a special Return upon the same, certify that the View hath been had according to the Command of the said Writ.

*Distingas on the Statute 5 Ann. for a View by Jurors.*

**G**regorius (&c.) Vic' S. Salutem precipimus tibi quod Distingas W. N. de . . . (and so recite the whole Panel) Jur' summoit in Cur' nostra coram nob int A. B. Quer' & C. D. Del' per omnes terras & catalla sua in balliva tua ita quod nec ipsi nec aliquis p ipsos ad ea manum appo. donec aliud a nob inde fueris pcept Et quod de erit eorundem nobis respons ita quod heas corpora eor' coram nob apud Westm die . . . pr' post . . . . . vel coram Justic' nosteris ad Assizas in Com' tuo capiend Assign' si prius die . . . . . die . . . . . apud H. in Com' pō p formam Statut in hujusmodi casu inde edict & p'bis' venerint ad faciend quandam Jur' patrie int partes pō de p'lica transgr & ad audiend inde Judic' suum de plur' defalt Et interim secund' formam Statut in hujusmodi casu inde n'p edict et p'bis' precipimus tibi quod heas lex de primis duodecim Jur' pō vel aliquem maior' numer' eorundem ad locum in questione sup . . . diem . . . pr' sequend qui ad-

tunc

K.'s Bench. tunc habunt viliū ejusdem loci in p̄sentia  
 E. F. ex Parte Quer' & G. H. ex parte  
 Def' appunctuat p̄ Cur' nostram coram  
 nobis ostend' locum p̄ Jur' p̄ Et qualic'  
 hoc p̄cept' nostrum fueris Execut' nob' as  
 pud Westm' ad p̄fat' diem Justic' nostris  
 ad Assisas p̄d' rectorū fac' hoc breve nos-  
 trum nob' remittend' Teste Robto Ray-  
 mond W<sup>il</sup> apud Westm' ... die ...  
 Anno Regni nostri . . . .

Ventris.

A Subpœna for *Witnesses*.

But Four  
 Names in  
 one Subpœ-  
 na.

**G**orgius Dei gratia magne Britanniæ  
 Franc' & Hibernie Rex Fidei Des-  
 fensor (tc.) A. B. C. D. E. F. & G. H.  
 (naming your Witnesses) salutem Preci-  
 pimus vobis & cuilibet vrm' firmiter in-  
 jungend' Quod omnibus & singulis negotiis  
 & Circulationibus quibuscunque cessand' in  
 propz' person' vestris sitis & quilibet vrm'

\* If in London, then coram  
 fidel' & dilect' nostro R. R. Mil'  
 Capitali Justic. as before, a-  
 pud Guildhall, London, &c.

If in Middlesex, coram  
 dilect' the Chief Justice, as  
 before, apud Westm. in Mag-  
 na Aula placitorum ibidem,  
 &c.

sit coram Justic' nostris ad  
 assisas \* in Com' Sonis  
 capiend' assign' die . . . . .  
 (the Day the Assizes are  
 held) prox' sequend' . . . .  
 (the Place where they are  
 held) in Com' p̄d' ad testis  
 ficand' ea omnia & singula que  
 scriberitis vel aliquis vestrum  
 scriberit in quadam Actione in  
 Cur' nra coram nobis sam-  
 pendend' indeterminat' int' A.  
 B. Quer' & C. D. Def. de p̄li-  
 to transgr' (as the Action  
 is) & ad diem ill' p̄ Jur' Patrie triand'  
 Gi

Et hoc nullatenus omittatis nec aliquis K.'s Bench.  
vnd omittat Sub pena cuiuslibet vnd  
centum Librarum Teste Robto Raymond  
Mil apud Westm 12 die Junii Anno regis  
ni nostri septimo.

Ventris.

See after the Form of a *Subpœna ad  
Testificand'* upon a Writ of En-  
quiry of Damages.

Upon this *Subpœna* there are Tickets to  
be filed up or made after this Manner.

*Tickets for Witnesses.*

Mr. A. B.

**B**Y Virtue of a Writ of *Subpœna* to you  
directed, and herewith shewed unto \* For London  
you, you are personally to be and appear or Mid. then  
\* before his Majesty's Justices of Assize on before Sir R.  
—next, being the — Day of — at R. Kr. &c.  
—of the Clock in the — noon of the (mutat' mi-  
same Day, at the Court then to be holden tand.)  
at — in the County of — to testify the  
Truth according to your Knowledge, in a  
certain Cause now depending, and then  
and there to be tried between A. B. Plaintiff  
and C. D. Defendant, in a Plea of — on  
the Part of — and hereof you are not  
to fail, on Pain of One hundred Pounds.  
Dated the — Day of — in the thir-  
teenth Year of the Reign of our Sovereign  
Lord George, by the Grace of God, of Great  
Brittain, France, and Ireland, King, Defen-  
der of the Faith, &c. Annoq; Dom. 1726.

H

Of





## Of Sealing Records.

**N**OTE, You must get your Record sealed at the *Nisi prius* by the *Custos Brevium*, who (in Truth) ought to make up your Record, and keeps Clerks for that Purpose, and you are to pay him for it: But for Dispatch, the Clerk or Attorney makes them up himself.

Notice of  
Trial.

You are also to give the Defendant's Attorney sufficient Notice of Trial in this Manner for *London* and *Middlesex*, Take Notice of Trial in this Cause to be on ——— Day of ——— at ———

*And Note*, That there must be Eight Days Notice given to the Defendant's Attorney of any Trial in *London* and *Middlesex*, unless the Defendant live above Forty Miles from *London*, and then 'tis Fourteen Days.

But Eight Days Notice of Trial at Assizes 'tis said is good, let the Defendant live where he will; but not upon an old Issue.

If a Cause have continued Four Terms without any Prosecution before Issue joined, the Defendant is to have a Term's Notice to plead, &c. before Judgment can be entred by Default; If after Issue joined, a Term's Notice before Trial. Or if after Judgment obtained by Default, a Term's Notice of executing a Writ of Enquiry.

If Notice of Trial be given in *London, K.'s Bench.* or *Middlesex*, and the Cause be not entered in the Lord Chief Justice's Book Two Days before the Day that it is to be tried, the Marshal shall enter a *Ne recipiatur* at the Request of the Defendant or his Attorney. And there is a Rule made, that the Cause shall be entered Four Days before Trial.

And if the Plaintiff give Notice to the Defendant, that he will try his Cause on a certain Day within Term, altho' it be not tried at the Day appointed, yet he is not bound to give new Notice of Trial, but may try it the next sitting in the same Term, upon Two Days Notice; but if not tried the next sitting, then Notice to be given as at first.

If there are so many Causes to be tried on the Day appointed, that the Cause cannot be tried, and it is made a *Remanet*, the Plaintiff need not give new Notice, but the Defendant must attend till it can be tried.

*Costs for not proceeding.*

**A**LSO if the Plaintiff proceeds not to Trial after Notice, (and no Countermand) then the Defendant shall have Costs taxed by the Secondary, upon Affidavit of Attendance and Costs; which Affidavit may be in the Manner following,

K.'s Bench.



In Banco Regis.

Int A. B. Quer &amp; C. D. Def.

You must have an Affidavit, setting forth the Charges of the Witnesses Expenses, &c. to obtain your Cost.

**R.** *G. maketh Oath, that he this Deponent, with the Defendant and Witnesses, attended at the last Assizes held at New-Sarum, for the County of Wilts, pursuant to a Notice of Trial formerly given by the Plaintiff's Attorney: And that then the Plaintiff did not proceed to Trial, neither did this Deponent receive or hear of any Countermand thereof.*

Jur . . . }

die . . . }

coram }

R. G.

J. B.

Or, if a Countermand was given at the Assizes say,

——— *Neither heard this Deponent of any Countermand thereof until Monday the 15th Day of July last, at Night, (&c.)*

*But Note, This is done upon a Motion in the King's Bench; but without Motion in the Common Pleas.*

*Note, At the Assizes, you get the Sheriff to return your Distringas of the Jury, and then you deliver the Record to the Judge's Marshal.*



The next Thing is to draw the Brevi-K.'s Bench. *ates* for the Counsel, wherein great Knowledge and Experience is required; especially to know what Proof is requisite to be made, and sometimes what is Evidence, and what not; and to set forth the Case *See some dis-* summarily, and yet perspicuously and ful- *rections Post.* ly; and sometimes also what is supposed *in Declaration* will be objected by the other Side. But *in Eject-* our Clerk will be no farther concerned *ment.* therein at first, than to write them fairly over: So that we shall proceed how to enter up Judgment after Trial.

*Postea.*

**W**HEN the Trial is over, and the Court-Fees paid, if your Action be laid in *London* or *Middlesex*, the *Associat* will deliver you your Record with the *Distringas*, and the *Panel* or Names of the Jury thereunto annexed, upon the Back of which Panel he writes the Substance of the Verdict, and the Costs given by the Jury, which you must take care to fix to your Record, that it may not be lost; then get the Record stamp't with a new double 2 s. 6 d. Stamp, and scrape or rub the Back of the Record with a *Pumice-Stone*, that it may be fit to write on, and about Two Fingers from the Top, with a Margent about Three or Four Fingers broad, begin your *Postea* long-ways, and not as you write your Record: The Substance and Meaning of which *Postea* in *English*, is this, that afterwards the Plaintiff and Defendant came by their At-

K's Bench. tornies before the Lord Chief Justice or Judge of the Assize, (as the Case is) and the Jury was sworn, &c. and then sets forth what Verdict they found, and what Costs they gave. The Form of this *Postea* followeth.

*The Form of a Postea by Default, with Tales.*

**P**ostea die & loco infracontent' coram R. Raymond' Mil' Capital' Justic' infra script' Associat' sibi J. J. Gen' (that is the Judge's Associat, who delivers you the Record) p forma Statut', &c. Uen' infra nominat' A. B. (viz. the Plaintiff) per Attoz natum suum infracontent' & infra nominat' C. D. (viz. the Defendant) licet solemniter exat' non venit, sed default' fecit; Ideo Jur' Jure illius unde infra fit mentio Capiatur Plus eum per default' & Jur' jure illius exat' quidam eor' videlicet C. F. G. H. reciting the Names of so many of the Jury of the Principal Panel which is annexed to your *Distringas*; as you shall find there to have been sworn; for against every Man's Name that hath been sworn, there is writ *Jr.* or *Jur'* or *Jurat'*, then say, Uen' & in *Jur' ill'* *Jurat'* existunt; but if Twelve of the Jury so returned do not appear to be sworn, then the Counsel for the Plaintiff before the Trial, prayeth the Judge to grant a *Tales de Circumstantibus*, that is, as many of other Persons then present as may fill up the Number; and they write upon the Panel *Nomina Jur' de Novo appoint' secund' formam Statuti*, (&c.) And then the

the Names of those *Tales* Men, and they K's Bench. are also sworn and stand with the Rest of the Jury; I say, if there be a *Tales*, as it often happens, then after existunt, you must say, [Et quia reliq Juratoz' ejusdem Jur' non comparuer' ideo alii de Circumstantibus per Wic London (or Middor as the Case is) infrascript' ad hoc electi ad requiconem predict' A. B. (viz. the Plaintiff) ac per Mandat' Capitai' Justic' predict' de novo apponuntur quorum Nomina in Pannello infrascript' affilantur scdm formam Statut' in humodi casu edit' & provis' qui quidam Jur' sic de novo appoit' videli' F. G. &c. [Here recite all the *Tales* Men] exact' sicut' vener' qui ad Civitatem de infracoiscent' simul cum al' Jur' predict' prius Impanellat' & Jurat' dicend' electi triat' & jurat' dicunt super Sacramt' suu' quod predictus C. D. the Defendant Assumpsit sup' se modo & forma prout predictus A. B. (viz. the Plaintiff) interius solus eum queritur & assidunt dampn' ipsius A. B. occasione non performaconis promission' & assumption' infrascript' ultra mis' & custag' sua per ipsum circa sectam suam in hac parte appoit' ad vigint' libr' & pro mis' & custag' illi ad quinquagint' & tres solid' & quatuor denar' (the usual Costs given by the Jury) Id, &c.

This is the Form of a *Postea* in an Action on the Case upon Promise, wherein there is a *Tales* and a Verdict for the Plain-



**K.'s Bench.tiff** by Default, that is, when the Defendant (after the Jury is returned, or ready to give in their Verdict) doth not appear, being called, knowing the Verdict will certainly be against him.

There are several other Forms of *Postea's*, of which it is necessary to add some Precedents.

*The Form of a Postea for the Plaintiff, upon Non Assumpsit, with a Tales, where the Defendant appears and does not make Default.*

**P**ostea die (æc.) venit tam infranotat' A. B. quam infrascript C. D. per Attoznat suos infracont Et Jur jur unde infra fit menço exact' quidam eorum videlicet C. F. G. H. (æc.) ven & in Jur ille jurat' existunt Et quia resis Jur ejusdem jurat' non comparuer' Ad al de circumstant' per Vic London infrascript ad hoc eted ad requisitõn predict' A. B. ac per Mandat Capit Justie predict' de novo apponuntur quorum nōia panello infrascript assilantur scdm' formam Statut in humod casu edit & probis qui quidem Jur sic de novo appoit' videlicet I. L. M. N. (æc.) exact' filit vener' qui ad Citat de infracontent simulcum al jur predict prius ad hoc impanellat & jurat' dicend' elci triat & jurat' die super Sacram' suum quod predict C. D. assumpsit super se modo & forma prout predict' A. B. intus plus eum queritur & assilant dampid ipsius A. B. decone non pforma  
cond

cond' promission' & assumpcion' infrascript' ul' K.'s Bench.  
tra mis' & custag' sua per ipsum circa sect'  
suam in hac parte appoit' ad cent' libr' &  
pro mis' & custag' ill' ad 53 s. 4 d. 30, &c.

For the Defendant upon *Non Assumpsit*.

Postea die (&c.) die super Sacram' suum  
quod predict' C. D. Non Assumpsit sup se  
modo & forma put' predict' C. D. plicando in-  
terius allegabit (&c.)

For the Plaintiff upon *Non culp'* in Trover.

Postea die (&c.) die sup Sacram' suum  
quod predict' C. D. est Culpabilis de pmiss.  
infrascript' modo & forma put' predict' A. B.  
interius Glus eum narrabit Et assidunt dampn'  
ipsius A. B. occasione infrascript' ultra mis'  
& custag' sua p ipsum circa sectam suam in  
hac parte appoit' ad 100 l. Et p mis' & cul-  
tag' ill' ad 53 s. 4 d. Ideo, &c.

In *Detinue* for the Plaintiff.

Postea die, (&c.) die sup Sacram' suum  
quod predict' C. D. detinet a pstat' A. B. in-  
frascript' quatuor quarter' frumenti prout  
predict' A. B. interius Glus eum queritur Et  
ulter' Jur' die sup Sacram' suum quod eas-  
dem quatuor quart' frument' valent 4 libr'  
& assidunt da' ipsius A. B. occasione dentenco-  
nis predict' 4 quarter' frumenti ad 20 solid' &  
p mis' & custag' ill' ad 53 s. 2 d. 30, &c.  
[the Judgment in this is remarkable, there-  
fore

K's Bench. fore I add it here] It cons̄ est quod p̄dict' A. B. recuperet plus p̄fat' C. D. p̄dict' 4 quarter' frumenti vel p̄dict' 4 libr' p̄ valore eorundem ac dā sua p̄dict', &c.

*Aliter in Detinue pro Quer'.*

Postea die, (&c.) die sup̄ Sacram' suum qd̄ p̄dict' C. D. detinet a p̄fato A. B. infrascriptū argenteum poculum in Parr' infrascript' interius specificat' modo & forma p̄t' p̄dict' A. B. interius plus eum Queritur & assidunt dā ipsius A. B. oc̄cone detentionis argentei poculi ill' ultra mis' & custag' sua per ipsum circa sed' suam in hac parte appoit si idem A. B. libatōn' ipsius argentei poculi here possit ad 10 s. & p̄ mis' & custag' ill' ad 53 s. 4 d. Et si idem A. B. libatōn' ejusdem argentei poculi habere non possit tunc Jur' p̄t' assidunt dā ipsius A. B. p̄ valore' argent' poculi p̄dict' ultra mis' & custag' sua p̄dict' per ipsos Juratores in forma p̄dicta assess. ad 5 l. (&c.)

For the Plaintiff in Debt upon Conditions performed.

Postea die, (&c.) die sup̄ Sacram' suum quod p̄dict' C. D. non solvit p̄fat' A. B. super infrascript' Fest' die sancti Johis Bapt' qui fuit in Anno Domini 1705. infrascript' in Condicionē infrascript' superius specificat' infrascript' centum libr' quas ei ad vel  
I  
sup



sup eodem die solville debuit secundum for<sup>m</sup> K.'s Bench.  
 mam & effect Condi<sup>c</sup> predict modo & forma  
 prout p<sup>d</sup>ict C. D. interius p<sup>l</sup>itand<sup>o</sup> allegabit  
 & assidunt d<sup>a</sup> ipsius A. B. oc<sup>c</sup>one ill<sup>l</sup> ultra  
 mis' & custag' sua per ipsum circa sec<sup>d</sup> suam  
 in hac parte appoit ad 4 denar' & p<sup>r</sup> mis' &  
 custag' ill' ad 53 s. 4 d. 30, &c.

For the Plaintiff upon *Solvit ad Diem*  
 pleaded to a Penal Bill.

Postea die, (&c.) die sup Sacra<sup>d</sup> suum  
 quod predict C. D. non solvit p<sup>l</sup>at' A. B. in-  
 framen<sup>c</sup>onat' 100 l. sup infrascript' 10 die  
 tunc instant Octob<sup>r</sup> sc<sup>d</sup>m formam & effect'  
 bill' Obl' inframen<sup>c</sup>onat' modo & forma put  
 p<sup>d</sup>ict' A. B. interius versus eum queritur &  
 assidunt d<sup>a</sup>, (&c.)

*Pro Quer' upon Non est factum.*

Postea die, (&c.) die sup Sacra<sup>d</sup> suum q<sup>d</sup>  
 infrascript' scriptum Obligatorium p<sup>r</sup> infra-  
 script 100 libr<sup>e</sup> in Parr' infrascript' interius  
 men<sup>c</sup>onat est factum p<sup>d</sup>ict' C. D. put p<sup>d</sup>ict  
 A. B. interius inde versus eum queritur &  
 assidunt d<sup>a</sup> ipsius A. B. oc<sup>c</sup>one ill<sup>l</sup> ultra mis'  
 & custag' sua p<sup>r</sup> ipsum circa sec<sup>d</sup> suam in hac  
 parte appoit ad 4 denar' & p<sup>r</sup> mis' & custag'  
 ill' ad 53 s. 4 d. 30, (&c.)

*Pro*

*Pro Quer' upon per Dures pleaded.*

Postea die, (&c.) die super Sacra suum quod infrascript C. D. die & anno in Parr' infrascripta fuit sui juris ad largum extra quamlibet Prisonam & scriptum Oblig' infra menconat ex mera & spontanea voluntate sua fec' sigillavit & ut fcd suum eidem A. B. ad tunc & ibidem deliberavit & non p vim & durit' imprisonament ill' modo & forma put p dict C. D. interius pfitand allegavit & assidunt da ipsius A. B. occone detenconis debiti illius inframenconat ultra mis' & custag' sua per ipsum circa sed' suam in hac parte appoit ad 12 denar' & p mis' & custag' ill' ad 53 s. 4 d.

*Pro Quer' in an Assault and Battery upon  
Non culp'.*

Postea die, (&c.) die sup Sacra suum quod pdict C. D. die anno & loco infrascripta in pdict A. B. insult fec' & ipsid verberavit vulneravit & maletractavit modo & forma put idem A. B. interius versus eum narravit Et assidunt da ipsius A. B. occone pmissorum infraccontent ult' mis' & custag' sua p ipsum circa sed' suam in hac parte appoit ad 10 libr' & p mis' & custag' ill' ad 53 s. 4 d. Id, (&c.)

*Pro Quer' upon son Assault demesne.*

Postea die, (et.) die sup Sacra suum quod p'dict C. D. die & anno supradicti Mi & Armd p'dict de injuria sua propria & absque casu p ipsum C. D. supius allegat in ipsum A. B. apud R. p'dict insult fecit & ipsum verberavit vulneravit & maletractavit ita quod de vita ejus desperabatur contra pacem Domini Regis nunc put p'dict A. B. interius versus ipsum queritur & assis dampnid ipsius A. B. occasione transgr p'dict ultra mis & custag' sua p ipsum circa sextam suam in hac parte appoit ad quadragint solidis & p mis & custag' ill' ad 53 s. 4 d. 3d, (et.)

The Continuances of these *Postea's* upon the Roll are after this Manner; after the Joining of the Issue ibid, et. you add thus:

**P**ostea continuat inde p'cess' int partes *Postea continued on the Roll.*  
p'dict de placito p'dict p Jur' p'oit inde  
int eos in respect coram Domino Rege apud  
Westm' usque diem Lune pr' post' Octab  
Pur' beate Marie extunc pr' sequend nisi dilect'  
& fidel' Dni Regis R. R. Mil' Capital' Ju-  
stie' dicat Dni Regis ad placita in Cur' ip-  
sus Domini Regis coram ipso Rege tenend'  
Assign' prius die Sabti pr' post' Octab Pu-  
risic' beate Marie apud Guild-hall London  
p fornd' Stat, et. ven' p defend' Jur', et.  
ad quem diem coram Dno Rege apud Westm'  
ven'



K.'s Bench. veni p̄dict A. B. p̄ p̄dict C. J. Attorn suū  
p̄dict & p̄fat Capital Justic coram quo, &c.  
mis' hic Record suū coram eo hit in hec ver-  
ba, ff. Postea die & loco, (&c. as before  
usq;) Itē, (&c.)

See after for entering up the Judgment.

If at the Assizes, say;

Postea continuat inde p̄cess', (&c. as be-  
fore usq;) Nisi Justic Domini Regis ad  
Assias in Com p̄dict capiendū assignū die  
Martis 22 die Augusti apud A. in Com p̄-  
dict' p̄ formam Statut, &c. veni p̄ defectū  
Jur', &c. Ad quem diem coram Domino  
Rege apud Westm veni p̄d S. p̄ Attorn  
suū p̄dict Et p̄fat Justic Domini Regis  
ad Assias coram quibus, &c. mis' hic Record  
suū coram eis hit in hec verba, ff. Postea  
die & loco infracontē, (&c.) Vide Assizes post.

*Pro Quer' in Ejectment.*

Postea scilicet die & loco infracontē coram  
R. Raymond Mil Capital Justic infra-  
script associat sibi Johē Ince Gen p̄ forma  
Statut, &c. venit tam infranominat A. B.  
quā infrascript C. D. p̄ Attorn suos infra-  
contē & Jur' jur' unde infra sic menō exact'  
scilicet veni qui ad veritatem de infracontē  
dicendū elōi triat & jurat dicunt sup Sacra  
suū quod p̄dict C. D. est Culpabilis de  
Transgr' & Ejectione firme infrascript modo  
& forma p̄ut p̄dict A. B. interius versus eum  
queritur & assidunt dampnū ipsius A. B. octo-  
ne

ne Transgressionis & Ejectionis ill' ult' mis' K.'s Bench.  
& custag' sua p ipsum circa sectam suam in ea  
parte appoit ad 12 d. & p mis' & custag' ill'  
ad 53 s. 4 d. Id, &c.

*Pro Def. in Ejectment.*

Postea scit die, (&c.) die sup Sacra suid  
quod pdict C. D. non est Culpabilis de  
Transgression & Ejection firme infraspes  
tificat put idem C. D. intius plitando als  
legabit. And the Judgment is——Id conā  
est quod pdict A. B. nil capiat p Will suam  
pō sed p falso clamore suo sit inde in mia &  
pdict C. D. inde eat sine die.

*Pro Quer' in Ejectment*, where the Jury  
find the Defendant Guilty as to a fourth  
Part, and to the rest Not guilty.

Postea die & loco, (&c.) triat & jurat  
quoad infrascript Transgr' & Ejection in  
quarta parte omnium & singul tētozum  
infrascript cum pcin (eisdem tētis in quatuor  
partes inde dividend) die sup Sacra suum  
qō pō C. D. est inde Culp modo & forma p  
ut pō A. B. intius versus eum queritur & als  
fidunt dampna ipsius A. B. orōne Transgr'  
& Ejectionis ill' ult' mis' & custag' sua p  
ipm circa sectam suam in hac parte appoit  
ad sex denar' & p mis' & custag' ill' ad 40 s.  
& quoad aliquam Transgr' & Ejection in  
tribus al' partibus tētozum pdict cum pcin  
resid onā tētozum pdict (in quatuor  
partes inde dividend) Jur pdict ulterius  
die

K.'s Bench die super Sacram suum p'dict quod p'dict  
 C. D. non est inde Culpabil' prout idem  
 A. B. interius inde p'litando allegavit.

*Pro Def. where the Plaintiff is nonsuited.*

Postea die & loco infrascript coram R.  
 Raymond Mil Capital Justic Dom' Regis  
 infrascript associat sibi . . . . Gen' p for-  
 mam Statut ( &c. ) Ven' tam infranominat  
 A. B. Quer' quam infrascript C. D. Def.  
 p Attoz' suos infrascript & Jur' jur' unde in-  
 fra sit menco exact' sicut vener' qui ad verita-  
 tat' de infrascript dicend' elci triat' & jurat'  
 fuer' ac a barra hic de veredicto suo inde red-  
 dend' ad colloquend' recesser' ac inde int' se col-  
 locut' & agreeat' fuer' ac ad veredict' ill' reddend'  
 ad barr' hic reverer' sup quo p's A. B. licet so-  
 lempnit exact' non ven' nec est billa suam in-  
 frascript erga p'sat C. D. ulter' pros', Jo ( &c. )

*For the Plaintiff upon Plene Administravit.*

Postea die ( &c. ) die sup Sacra suad qd  
 p'dict C. D. die impetraconis Wille infra-  
 specificat scilicet 23 die Januarii Anno ( &c. )  
 fuit diversa bona & catall' que fuer' infra-  
 script J. S. ( viz. the Testator or Intestate )  
 & diversa bona & catall' que fuer' p's J. S.  
 tempore mortis sue in manibus p's C.  
 D. administrand' & assidunt dampnid' ( ut  
 sup'ra. )

*Aliter in Case.*

Postea die ( &c. ) die sup Sacra suad qd  
 p'dict C. D. 23 die Jan' Anno ( &c. ) fuit  
 diversa bona & catall' que fuer' p'dict J. S.

tem



tempore mortis sue in manib⁹ suis admini. K.'s Bench.  
strand ad valenc⁹ p̄d 100l. in Parr p̄d supius  
specificat modo & forma put p̄dict A. B. su-  
pius allegavit & assidunt dampna ipsius A. B.  
occone non performacon' pmission' & assump-  
con' p̄d ultra mis' & custag' sua per ipsum  
circa sectam suam in ea parte appoit ad . . . .  
& p mis' & custag' ill' ad 53 s. 4 d. The  
Judgment is, ——— p̄d cons' est qd p̄d A.  
B. recuper' solus p̄d C. D. dampn' sua p̄d p  
Jur' p̄d in forma p̄d assessa necnon 20 l. & 10 s.  
pro mis' & custag' suis eidem A. B. p Cur'  
Dñi Regis hic ex assellu suo de Anc'o adjus-  
dicat que quidm' dampn' in toto se attingunt  
ad . . . . l. de bonis & catallis qz fuerunt  
p̄d J. S. in manib⁹ p̄d C. D. administrand'  
levand' si tantid' in manib⁹ suis administrand'  
heat Et si tantum in manib⁹ suis non heat  
tunc p̄d . . . . l. p mis' & custag' p̄dict  
de bonis & catallis ipsius C. D. p̄p̄ levand'  
Et p̄d C. D. in mia, &c.

Postea's of Records at the Assizes.

**P**ostea die & loco infracontent' coram R. R.  
Mil Capital Justic' Dñd Regis de Wanc-  
co \* & S. L. Arm' eidem R. R. & R. B. Mil \* The  
und Justic' dict' Dñd Regis ad Allias' in Judge's  
Com' B. capiend' Assign' per formam Sta- Associate  
tut, &c. hac vice associat' plent' predict' who returns  
R. B. non expectat virtute brevis dicti these Postea's.  
Dñd Regis de si non omnes, &c. veni in-  
stanominat S. P. per Actozm suum infracontent'  
Et infrascript' R. O. Gen' licet solemniter ex-  
act non veni sed default fecit Ideo Jur' un- Default of  
de infra fit menço capiatur vers' eid' p default Def.  
Et Jur' jur' ill' exact' quidam eoz vide't  
I M. R.

K.'s Bench. M. R. & T. M. veid & in jur' ille jurat exi-  
 Tales. stunt Et quia resid' Jur' ejusdem Jur' non  
 comparuer' Ideo at de Circumstantib' per  
 Wic Com' pō ad hoc elect' ad requisitōn' pō  
 S. P. ac p Mandat' Justic' pō de novo appo-  
 nuntur quor' nomina Pannello infrascript' affilantur secundū formam Stat' in hu-  
 jusmodi casu edit' & p'bis' Ac Jur' sic de no-  
 vo appōit videlicet T. L. J. G. J. V. (et.)  
 exact' sili' veid qui ad veritat' de infracons-  
 tent' simul cum at Jur' p'dict' prius impanel-  
 lat' & Jurat' die sup Sacra suum qō pō R. O.  
 Quod Def. assumpsit. assumpsit sup se modo & forma put pō S. P. in-  
 Lius inde vers' eum queritur Et assidunt  
 dampna ipsius S. P. occōne infraspēc' ult' mis'  
 & custag' sua per ipm' circa secta sua in hac  
 parte opposit' ad quatuor lib' Et p' mis' &  
 custag' ill' ad quadraginta solid' — Ideo,  
 &c.

The Judgment hereupon is :

Judgment for the Roll. — It' cons' est quod p'dict' S. P. recuper-  
 vers' p'fat' R. O. dā p'dict' per Jur' p'dict' in  
 forma p'dict' assess' necnon decem lib' pro  
 mis' & custag' suis p'dict' eidem S. per Cur'  
 dict' Dnd Regis nunc hic ex assensu suo de  
 incro adjudicat Que quidem dampna in to-  
 to se atting' ad sexdecim lib' Et p'dict' R.  
 Mia'. in mia', &c.

See before for the Continuation of Po-  
 stea's upon the Roll.

Upon

Upon an Issue, quoad tam triand' Exit' quam  
ad Inquirend' quæ damna, sur Demurrer.

**P**ostea die & loco infracentent' (sc. as  
before usq) Qui ad veritat' de infra-  
centent' simulcum al' Jur' p'dict' prius im-  
panellat' & jurat' dicend' elect' triat' & jurat'  
quoad defect' reparacōm Cancell' infrascript'  
interius assign' die sup' Sacra suum quod  
p'dict' Decan' & Capitul' dimiser' infrano-  
minat' G. H. Cancell' infrascript' modo &  
forma p'out p'dict' Decan' & Capitul' p'  
Parr' suam interius inde allegaver' Et as-  
sidunt dampn' ipsoꝝ D. & C. occone Con-  
vençōm ill' fract' in Exit' infrascript' inter  
partes p'ed' interius junct' ultra mis' & cus-  
tag' sua p' ipsos circa secta suam in hac par-  
te appōit ad 200 l. Et p' mis' & custag' ill'  
ad 40 s. Et quoad inquirend' que dampn'  
p'dict' D. & C. sustinuer' occone fracçōm cons-  
vençōm infrascript' Unde partes p'dict' in  
Judicio Cur' se posuer' si contingat Judic' p'  
p'dict' D. & C. versus p'dict' C. G. inde rede-  
di tunc tñdem Jur' die sup' Sacra suum  
Quod p'dict' D. & C. sustinuer' dampna ocço-  
ne inde ad 100 l. Ideo cons' est quod p'dict'  
D. & C. recuperent vers' p'fat' C. G. damp-  
na p'dict' p' Jur' p'dict' in forma p'dict' as-  
sess. necnon 11 l. 6 s. 8 d. p' mis' & custag'  
p'dict' eisdem D. & C. p' Cur' dicit Und' Re-  
gis nunc hic ex assensu suo de incro' adju-  
dicat Que quidem dampna in toto se atting'  
ad 123 l. 6 s. 8 d. Et p'dict' C. in mia (sc.)



K.'s Bench.

Upon a Special Verdict.

**P**ostea continuat inde Process, ( &c. )  
 Postea die & loco infracentent coram  
 T. T. Mil' und Justic' Domini Regis de  
 Banco & T. B. servien ad Legem Jus-  
 tic' ejusdem Dnd Regis ad Alias in  
 Com' D. capiend' Assign p formam Stat  
 &c. ven tam infra nominat C. D. quam  
 infrascript R. R. p Attozid suos infracon-  
 tent et Jur' Jur' unde infra fit menço  
 erat' similis ven qui ad veritat de infra-  
 content dicend' elect triat & jurat dicunt  
 super Sacem' suum quod ante Transgt'  
 & Ejection in terris in Parr' infrascript  
 mençonat quidam J. H. seif fuit de eisdem  
 teri in diñco suo ut de Feodo & sic in-  
 de seif existend' condidit Testamentum &  
 ultim' voluntat sua in scriptis int al' de  
 terris infrascriptis p nomen cuiusdam In-  
 tac' in hec verba, I give and bequeath un-  
 to *Anne Harrison*, Daughter of my  
 Son-in-law *Thomas Harrison*, my Intache  
 in *Hopefield*, if my Son *Thomas Hyblin*  
 happen to have no Issue Male after the  
 Decease of my Wife ; and if my Son *Tho-*  
*mas Hyblin* have Issue Male, then my Will  
 is, That the said *Anne* shall have five  
 Pounds paid her in Lieu of the said In-  
 tache. Et postea pō J. obiit Hens Crit  
 pstat Thom' Hyblin qui hunc Crit' mascul'  
 de corpore suo legitime pcreat quendam  
 Richardum Hyblin Et Jur' ulterius sup  
 Sacram' suum pdict dicunt quod Anna Uxor  
 pstat Jo Hyblin eundem Johannem super-  
 vixit


vixit & postea obiit Et quod p̄fat Quinque K.'s Bench-  
libre in ult volunt sua supradict' mento, nat oblat fuer p̄fat Anne Harrison post  
mort p̄fat Crit mascul' & p eandem Ans  
nam H. recusat fuer Et ulterius Jur p̄dict  
super Sacram suum p̄dict dic quod que-  
dam Anna & Eliz. Hyblin sunt sorores &  
hered p̄fat Rich Et quod p̄fat Ric  
filius p̄dict Thom obiit absque Crit mas-  
cul' de corpore suo legitime procreat Et  
quod p̄fat Anna Harrison intravit in ter-  
ras infrascript & easdem dimisit infrano-  
minat G. A. quer' virtute cuius p̄fat G.  
in terr' infrascript intravit & fuit inde pos-  
sessionat quousq; infrascript R. R. in & su-  
per possessione ipsius G. intravit & ipsum  
a possessione sua ejecit modo & forma p̄out  
infrascript G. ulterius versus eum narra-  
vit. Et quod p̄dict R. R. modo Def. est  
Guardianus p̄dict Anne & Eliz. Hyblin &  
ad earū usum intravit. Sed utrum sup to-  
tam materiam p̄ed p Cur p̄dict in forma  
p̄dict compert p̄dict R. R. sit Culpabilis  
de Transgr & Ejection p̄dict necne Jur  
p̄dict penitus ignorant Et petunt inde ad-  
visamentum Justic & Cur hic Et si super  
tota materia p̄dict in forma p̄dict compert  
videbit Justic & Jur hic quod p̄dict R. R.  
est Culpabilis de Transgr & ejectione in-  
frascript tunc Jur p̄dict super Sacram su-  
um p̄dict dic quod p̄dict R. R. est Cul-  
pabilis de Transgr & ejectione infrascript  
modo & forma p̄t p̄dict G. A. interius  
Hus eum querit Et assidunt dampna ip-  
sius G. A. occasione Transgr & Ejection  
ultra mis & custas sua per ipsum circa

K.'s Bench, sectam suam in hac parte appoi' ad ser des  
 nar Et pzo mis' & custag' ill' ad 53 s. 4 d.  
 sed si super tota materia p'dict' in forma  
 p'dict' comperi' videbit' Justic' & Cur' hic  
 quod p'dict' R. R. non est Culpabilis de  
 Transgr' & Ejection' p'dict' tunc Jur' p'dict' su-  
 per Sacra' suum p'dict' die Quod p'dict' R.  
 R. non est Culpabilis de Transgr' & Ejection'  
 p'dict' put idem R. interius p se p'titendo allega-  
 vit Et quia Cur' dicit Dnm Regis nunc hic de  
 iudicio suo de & sup p'missis reddend' nondum  
 advisat Dies inde dat' est p'fat' G. A. qd' sit co-  
 ram Dno Rege apud Westm' die Mercurii  
 p' post Octab' scd' Trin' de iudicio suo inde  
 audiend' Et quod Cur' dicit Dnd Regis  
 hic nondum, (&c.) (And so is continued  
 until *Trinity-Term* next following) Ad quem  
 diem coram Dno Rege apud Westm' veni-  
 partes p'dict' per Attoz' suos p'dict' sup quo  
 visis & p Cur' dicit Dnd Regis nunc hic  
 plenius intellectis omnibus & singulis p-  
 missis maturag' deliberatione superinde hita  
 considerat' est quod p'dict' G. A. recuperet  
 vers' p'fat' R. R. Termin' suum p'dict' ad-  
 huc ventur' de & in tentis p'z' cum per-  
 tin' ac dampna sua p'dict' per Jur' p'dict'  
 in forma p'dict' assess' necnon 13 l. 6 s. 8 d.  
 p mis' & custag' suis eidem G. A. p Cur'  
 dicit Dni Regis nunc ex assensu suo de in-  
 fro adjudicat' Que quidem dampna in to-  
 to se atting' ad 16 l. 8 s. Et p'dict' R. R.  
 capiat, &c.

Cur' non advi-  
 sat.

There are several other Forms of *Postea's*, as the Action, Verdict, and divers  
 Sorts of Proceedings require, which would  
 take up too much Room in this small Trea-  
 tise; these are inserted as being of gene-  
 ral



ral Use, and to give Insight into the Forms *K.'s Bench.*  
 and Methods of drawing them up : And   
 as it was observed before, if the Trial be Costs taxed  
 at the Assizes in the County, the Judge's on the Re-  
 Associate ingrosseth the *Postea* on the Re- cord after  
 cord, and so in those Cases it is not the the *Postea's*  
 Attorney's Business ; he only carrieth it to returned.  
 the Master to have Costs taxed, and then  
 enter up Judgment according to the for-  
 mer and following Instructions.

When you have the *Postea* ingrossed,  
 carry it to the Clerk of the *Postea's* to  
 be marked, who is Mr. . . . and sits in  
 the *King's Bench* Office for that Purpose,  
 and he will write on the Top of your  
*Postea* the Day of the Month D. by —  
 for which you pay him 4 *d.* Then carry  
 your *Postea* to the Clerk of the Rules,  
 and desire him to give a Rule upon the  
*Postea*, for which you must pay him 1 *s.*  
 4 *d.* That Rule will be out in Four Days,  
 if *Sunday* doth not intervene, and then  
 Five; for the Defendant hath always Four Four Days  
 Days to move the Court in Arrest of Judg- allowed for  
 ment, if he hath any Cause to shew ; as Arrest of  
 that neither he nor his Attorney had No- Judgment.  
 tice of Trial, or that the Record differs  
 from the Declaration pleaded unto, in  
 some material Point ; and several Causes  
 may be alledged, of which generally Af-  
 fidavit ought to be made.

When the Rule is out, if the Judgment  
 be not arrested, you must now have the  
 Record stamped on the Back with a dou-  
 ble Half-Crown Stamp, and carry it to  
 the Master of the Office, Mr. *Clark*, and

K.'s Bench. he will tax you further Costs, which are called Costs *De Incremento*, and then is your Judgment fit to be entred.

*Postea* upon a Trial at the Assizes.

But if your Trial be at the Assizes in the Country, then you do not take away the Record and *Distringas* with you, but the Associate keeps it till the next Term, indorses the *Postea* upon it, for which he receives his Fee at the Trial; and you are to call upon him a little before the Beginning of the ensuing Term, to put him in mind to have the *Postea* ready; and then you must proceed to have it marked, and a Rule given, and Judgment signed as before; yet for Expedition you will have Occasion to enter the

Judgment to be entered on the Roll.

*Postea* your self. Now for the Entering the Judgment, Care must be taken that no Error be committed. The Rolls to enter them upon are delivered out by Mr. Gibbons in the *Middle Temple*; you must make a small Margent about a Thumb's Breadth, then begin about a Span from the Top of the Roll in large set Court-hand, in these Words, *Adhuc de Terminis Sancti Hillarii*, as the Term is, *Teste Robto Raymond, Mil.* Then next it is usual, according to a late Rule, to write the Warrant of Attorney next, after this Manner, *viz.*

Warrants of Attorney on the Roll.

London scilicet A. B. p̄s l̄s suo J. C. At-  
toz natum suū versus C. D. de p̄lito Trans-  
gr̄ sup Casum (or as the Action is, as de  
p̄lito debti, &c. if there be an alias dict  
in

in the Declaration, your Warrants of At-K.'s Bench-  
 torney must be so too, and so if there be Executors or Administrators.) Then under the first you enter another for the Defendant thus: London scilicet C. D. (viz.) (the Defendant) pō lō suo E. F. At-  
 roznat suum vsus A. B. in plico pōict, (some put it ad sec' A. B. in plico pōict, which seems the better Way); then with-  
 in ha'f an Inch under begin to enter the Judgment thus :

By Stat 4 & 5 Ann the At-  
 torney for  
 the Plaintiff  
 shall file his  
 Warrant of  
 Attorney the  
 same Term  
 he declares,  
 and the De-  
 fendant the  
 same Term  
 he appears.

London scilicet, Memorandum &c. as be-  
 fore. So recite the whole Record till you come to the End of the Issue. and then say, Postea continuat inde proces' inter ptes  
 pōict de plico pōict p Jur' pōict pōit in-  
 de int eas in respectu coram Dño Rege apud Westm usq' Diem, &c. (as it is in the Jurat of the Record) nisi Dilcus & fidelis Dñd Regis Robtus Raymond Mil' Capital' Justic' Dñd Regis ad pñta in Cur' ipsius Dñd Regis coram ipso Rege tenend' Assign' prius die (as in the Jurat) apud Guildohall Lond p forma Statut ven' pro defcud Jur', &c. ad quem diem coram. Dño Rege apud Westm ven' pōict A. B. per Attozid suid pōict & pñat Capital' Justic' coram quo, &c. misit hic Record suum coram eo habet in hec verba scilicet Postea Die & Loco &c. there recite the whole Postea verbatim — Ad Cons' est qd pōict' A. B. recuperet versus pñat C. D. debitum suum pō' & dampna sua pōict per Jur' pōict in forma pōict asses' nec non 7 l. 16 s. 8 d.

Upon a Trial  
 in London.

Judgment.



*K.'s Bench.* 8 d. (viz.) (the Cost de Incrementis taxed by the Master) p mis' & custag' suis poict eidem A. B. p Cur' dicti Domi Regis nunc hic ex assensu suo de Incro adjudicat que quidem dampna in toto se attingunt ad trigint Libr' summing up the whole) & poict C. D. in *Mia*, &c. (and write *Mia* in the Margent: But in Ejectment and in Trespas, and upon *Non est factum* pleaded, there instead of & pocus' C. D. in *Mia*) you must say,) Et pocus' C. D. *Capiatur*, &c. and *Capiatur* in the Margent. And thus is your Judgment enter'd and finished: And you must remember to leave a good Space between it and the Beginning of another Judgment, that you may have Room to enter *Committitur*, which is when the Defendant is charged in the *King's Bench* Prison, and to enter Satisfaction acknowledged upon the Record, &c.

Issues and Judgments entered.

*And note*, That you may enter the Issues and Judgments on both Sides the Roll; but you must remember not to write too near the Bottom of the Roll on the Fore-side of it, because within an Inch of the Bottom, and where the Roll is of full Breadth, you are to write the Number of the Roll, and the chief Clerk's Name thus, in great Court-Hand and Figures:  
*Ret'lo cxxv.*

*Ventris.*

The

The same Method for those at the Af. K.'s Bench. sizes in the Country, (*mutatis mutandis.*)

Note, Upon a Trial at the Assizes.

When you have Occasion to write on the Back-side of the Roll you must begin over against the first Line of your *Memorandum*, on the Fore-side, or thereabouts, leaving a Margent as on the other Side.

Next we will shew how to enter Judgments that are without Trials.


*How to enter Judgments without Trials upon the Rolls.*

These Judgments are entered upon the like Rolls as the other; nay, you may enter them upon the very same Rolls if you will, as is usual, observing to leave Spaces for *Committiturs*, *Satisfactions*, and such Matters as may occasionally follow each Judgment.

As  
*Nil Dicit,*  
*Non In-*  
*formatus,*  
*Cogn' Ac-*  
*tionem.*

Now by way of Repetition, I say,  
First, Make a Margent of an Inch wide, then rule a Line about a Span, from the Top of the Roll, then write in great Hand, (*Adhuc de Terminis Sed Trinit T. R. Raymond, Jst,*) as the Term and Chief Justice's Name requires.

Next

K.'s Bench. Next enter your Warrants as is before  
 observed thus, (*viz.*)

For the  
Plaintiff.

Son̄s ſ. A. B. pō lō ſuo C. D. Attor̄n  
 ſuū verſus E. F. (aſs dict, &c. if any) de  
 plito Debi (as the Action is.)

For the De-  
fendant.

Son̄s ſ. E. F. pō lō ſuo G. H. Attor̄n  
 ſuū verſus A. B. de plito debi.

(Or thus for the Defendant.)

Son̄s ſ. Idem E. F. pō lō ſuo G. H.  
 Attor̄n ſuū ads A. B. de plito pō.

Next under within half an Inch, begin  
 to enter Judgments.

*And note,* That ſome of theſe Judgments  
 without Trial, are by Default, as Nil  
 Dicit; ſome by Confefſion of the Party,  
 as Cogit Actonem; ſome by Aſſent of the  
 Attorney, as Non ſum Inſormatus, (&c.)

*Vide ante.*

You ſeldom have any thing but the De-  
 claration to enter theſe by, and the Nature  
 of the Judgment marked upon it, and Coſts  
 taxed on the Margent of the Declaration.

*Memorandum*

You muſt begin with a *Memorandum* ei-  
 ther of the ſame Term, or of another (as  
 you will ſee by the Declarations) as is  
 before directed, to the End of the Decla-  
 ration——

Then beginning a new Line, write  
 your Judgment.

*Nil Dicit, in Debt.*

Thus with  
an Impar-  
lance.

**E**T modo ad hunc diem ſciſt diem . . .  
 pr' poſt . . . (the firſt Day of the  
 Term Judgment is entred) iſto eod̄ Ter-  
 mino



inio usq; quem diem p̄s C. D. huit licentiam  
 ad Willam p̄s interloquend & tunc ad respon-  
 dend, &c. coram Dño Rege apud Westm̄ ven-  
 p̄s A. B. p̄ Actorū suū p̄s Et p̄s C. D. li-  
 cet ad eund diem solempnit' erat' non ven-  
 nec aliquid die in barram sive p̄clusionem  
 Actorū p̄s A. p̄s per quod idem A. remanet  
 vers' p̄fat C. inde indefens', &c. Itē Consi-  
 deratū est qđ p̄s A. recuperet vers' p̄fat C.  
 debūm suū p̄s necnon 33 s. 4 d. (the Costs  
 taxed) pro dampnis suis que sustinuit in  
 occasione detentōis debi illi qm̄ p̄ mis' &  
 Custag' suis p̄ ip̄m circa sectam suā in hac  
 parte appōit' eidem A. p̄ Cur' dict' Dñd Re-  
 gis nunc hic ex assensu suo adjudicat. Et  
 p̄s C. in mīa, &c.

K.'s Bench.

Nil Dicit, not  
 signed by the

Secondary;

but an Inci-  
 pitur to be

made and  
 paid for, and  
 the Roll  
 and Nar' is  
 marked.

In the Mar-  
 gin of the  
 Roll, put Fu-  
 dic' sign' -- die  
 Julii 1726.  
 Et Mia'.

Note, That sometimes there is no Im-  
 parlance, as when the Judgment is  
 confessed, &c. the same Term the  
 Declaration is of, as followeth.

Nil Dicit the same Term, in Debt with-  
 out an Imparlance.

Et p̄s C. in propi' p̄sona sua veni &  
 defend vim & injur' quando &c. Et pet'  
 licenc' ad bil' p̄s interloquend Et ei conce-  
 dit', &c. Et sup hoc dies inde dat' est par-  
 tibus p̄s coram Dño Rege apud Westm̄  
 usque diem . . . (the last Day of the Term)  
 pror' post . . . isto eod Terminō vis  
 delit p̄fat C. ad Will p̄s interloquend  
 & tunc ad respond, &c. Ad quem diem  
 coram Domino Rege apud Westm̄ veni  
 p̄s

Nil Dicit.

K.'s Bench.

ps A. p Attorn suu ps Et ps C. licet  
ad eundem diem solemniter exact non venit  
nec aliquid (tc.) (as in the former to the  
End.)

*Nil Dicit*, in Case, of another Term, with  
a Memorandum.

Nil Dicit.

**E**T modo ad hunc diem scilicet diem . . . .  
pr' post . . . . (the first Day of the  
Term, Judgment is entred) isto eodem  
Termo usque quem diem ps C. D. hunc  
licentiam ad Willam pdict' interloquens &  
tunc ad respondens tc. coram Dno Rege apud  
Westm venit ps A. B. p Attorn suu  
ps Et per' quod ps C. D. ad Barr' suam  
prespondeat Et pdict' C. D. licet ad  
eundem diem solemniter exact non venit nec  
aliquid dic' in barram sive preclusionem Ac-  
tionis ps A. B. p quod idem A. B. remanet  
inde solus eum indefens. — Ob qd ps  
A. B. dampna sua ps solus pfat C. D. occa-  
sione \* pmiss' ps sustinet recuperare debeat Sed  
quia Cur' dic' Dni Regis nunc hic incogni-  
t' existit que dampna ps A. B. occasione \* pmiss'  
ps in hac parte sustinuit Ideo precept' est Wic'  
qd per Sacrd' duodecim proborum & legiti-  
um hominu de Ballia sua diligent' inquir'  
que dampna ps A. B. tam occasione \* pmiss' ps  
quam pro Milis & custagiis suis p ipm  
circa lectam suam in hac parte appoit' sus-  
stinuit Et Inquisitionem quam inde cepit  
Dno Regi apud Westm die Mercurii prox'  
post tres Septimanas Scti Michis (the Re-  
turn of the Writ of Enquiry) sub Sigil-

Writ of In-  
quiry.

Io suo & Sigillis eorum per quorum Sa=*K.*'s Bench.  
 erunt Inquisitionem illi cepit mittat unacum  
 bre Dñi Regis ei inde direct', idem dies  
 dat' est eidem A. B. ibm, &c.

Hereupon a Writ of Enquiry of Damages must be made out, the Form whereof see after, where you may find how to enter Judgments upon this Writ. Ad quem diem, (&c.)

*Nil Dicit*, in Case, the same Term with the Declaration.

**E**T pñ E. p B. C. Attoꝝ suū veni & *Nil Dicit*.  
 defend vim & injur' quando, &c. Et  
 pñ A. (the Plaintiff) pet quod pñ E. ad  
 narr suam pñ respondeat sup quo pñ E.  
 habet diem Lune prox' post Quinden' Scti  
 Martini (the last Day of the Term) sibi dat  
 p Cur' Dñi Regis hic ad respondend', &c. Et  
 idem E. ad eund diem solemnit' exact ad  
 respond non venit nec idem Attoꝝ pñ E. p  
 ipso E. aliquid inde dicit in barr' sive pclusi-  
 onem acconis pñ A. pñ p quod idem A. re-  
 manet inde versus eund E. indefens', Ob qđ  
 pñ A. dampna sua versus pñat E. occone\* pre-  
 miss' pñ sustenc' recuperare debeat, sed quia  
 Cur', &c. (ut prox' antea.)

\* If in Trespass, you must enter as be-  
 fore, only mutatis mutandis; and in-  
 stead of occone pmiss' pñ, you must  
 say (occone Transgr pñ.

In



K.'s Bench.



In Assault, occōne Transgr' & Insult pō.  
 In Assault and Imprisonment occōne  
 Trans' Insult' & Imprisonament' pō.  
 In Covenant, occōne fratrēcon Conven-  
 cōn pōict.  
 In Assumpsit, occōne non pformation p-  
 mission & assumpcōn pēv.


In Ejectment with Damages, say as be-  
 fore, usq; ——— indefens', (et.) Ideo cons'  
 est quod pēv A. Terminum suū adhuc ven-  
 tur' de & in tentis pēv cum pertiū ac damp-  
 na sua occōne Transgr' & Ejection pōict  
 solus pstat Des. recuperare debeat Sed quia  
 Cur' dict' Dñi Regis nunc hic coram ipō  
 Rege incogit existit que dampna pō A. oc-  
 cōne Transgr' & Ejection pō sustinuit Id p-  
 cept' est Uic quod pstat A. plenar' possessionē  
 suam Termini sui adhuc ventur' de & in  
 tentis pō cum ptiū sine dilone here faciat  
 Et qualiter hoc hie dicti Dñi Regis fue-  
 rit execut' dicto Dño Regi apud Westm  
 die . . . . . ppor' post . . . . . constare fac'  
 Precept' est etiam eidem Uic quod per  
 Sacrm' duodecim probor' & legalium homi-  
 nū de ballia sua diligen' inquir' que  
 dampna pō A. tam occōne Transgr' & Ejecti-  
 on pōict' qm p mis' & custag' suis p ipm  
 circa sectam suam in hac parte apposit' sus-  
 tinuit Et Inquisitionē qm inde cepit dic-  
 to Dño Regi apud Westm ad pstat diem  
 sub sigillo suo & sigillis eorum per quos-  
 rum Sacrm' Inquisitionē ill' cep' mittat us-  
 na cum h'i dict' Dñi Regis inde sibi di-  
 rect' Idem dies dat' est pstat A. ibidem, &c.

Writ of In-  
 quiry.

If the Judgment be with a remittit damp. K.'s Bench  
 na say as before, usq̄ — Ideocons est  
 (et.) usq̄ recuperare debeat Et super hoc p̄ Remittit  
 dia' A. gratis hic in Cur' remittit p̄fat dampna:  
 B. tñd om̄ia hujusmodi dampna mis' &  
 custag' q̄ p̄fat' A. in hac parte adjudicent  
 qñd om̄id Judic' & Execucōn p̄ dampnis mis' &  
 custag' p̄ Jō p̄ C. de dampn' mis' & custag'  
 p̄ acquiet' exist' Et pet' idem A. h̄re Dñd  
 Regis Ric' Com' S. dirigend' de h̄re fa-  
 ciend' possessionē termi sui p̄ adhuc ventur  
 de & in tēntis p̄dia' cum p̄tñd Et ei con-  
 redit' retornabile coram Domino Rege apud  
 Westm' die . . . . . prox' post . . . Idem  
 dies dat' est p̄fat' A. ibidem, et.

Judgment by Cogn' Actionem, in Debt with-  
 out Impar lance.

**E**t p̄ A. p̄ C. B. Attorn' suū ven' & de- Cogn' Actio-  
 fend' vim & injur' quando, et. Et dic' nem.  
 qđ ip̄d non potest dedicere Actionem p̄dict'  
 E. supradia' nec quin ip̄d debet eidem E.  
 p̄dia' 10 l. & 15 s. (if upon Bond say, nec  
 quin scriptum oblig' p̄dia' sic factum ipsius  
 A. nec quin ip̄d debet eidem E. p̄dict' 10 l.  
 & 15 s.) modo & forma p̄out p̄dia' E. su-  
 pius plus eum queritur Jō Cons' est quod Judic' Sign'  
 p̄dict' E. recuperet vers' p̄fat' A. debitum . . . die . . .  
 suum p̄d necnon 60 s. [such Costs as are 1726.  
 taxed] pro dampnis suis' q̄ sustinuit tam You set down  
 occōne detencōnis Debiti illius quam pro in the Mar-  
 mis' & custag' suis per ip̄m circa sedam gent when  
 suam in hac parte apposit' eidem E. p̄ Cur' Judgment  
 was signed;  
 K. Dñd & Mia.

K.'s Bench. **Und** Regis nunc ex assensu suo adjudicat  
 Et p<sup>r</sup> A. in m<sup>ia</sup>. &c.

The Defendant confesses the Damages,  
 to prevent the Expence and Trouble  
 of a Writ of Enquiry.

London ff. **A**. B. Queritur de C. D.  
 Gent<sup>r</sup> und Philazar' Cur'  
 Domini Regis coram ipso Rege p<sup>r</sup>sen' hic  
 in Cur' in p<sup>r</sup>pria p<sup>r</sup>sona sua p<sup>r</sup> eo videt<sup>r</sup> q<sup>d</sup>  
 cum p<sup>r</sup>dict' C. post primum diem Maii  
 Anno Domini Millesimo Septingentesimo  
 quinto Scilicet vicesimo octavo die Martii An-  
 no **Und** Millesimo Septingentesimo vicesimo  
 primo apud London p<sup>r</sup>dict' in Paroch' beate  
 Marie de arcubus in Warda de Cheap fecit  
 quandam notam suam in scriptis Vocat'  
 (a promissory Note) manu sua p<sup>r</sup>pria sub-  
 script' gerend' dat', &c. (so on to) & inde  
 p<sup>r</sup>ducit sectam, &c.

Cognosco hanc Actionem  
 & quod Quer' sustin' damp-  
 na ad Quinquagint' Libras  
 ita quod cesset executio usq;  
 decimum quintum diem A-  
 prilis prox' sequen' C. D.  
 9 Feb. Anno 12 Geo. Regis  
 pro mis' 6 l. 9 Feb. 1725.

Et p<sup>r</sup>dict' C. in p<sup>r</sup>pria  
 p<sup>r</sup>sona sua veni & defendi  
 vim & Insur' quando, &c.  
 Et dicit quod ipse non po-  
 test dedicere, accor<sup>d</sup> p<sup>r</sup>dict'  
 A. p<sup>r</sup>dict' nec quin ipse C.  
 assump' sup se modo & for-  
 ma put p<sup>r</sup>dict' A. superius  
 inde versus eum queritur  
 nec etiam quin p<sup>r</sup>dict' A.  
 sustinuit dampna c<sup>o</sup>ne  
 non p<sup>r</sup>format p<sup>r</sup>missionem & assump<sup>r</sup>con p<sup>r</sup>dict'  
 ad



ad 50 l. put ipse p̄dict A. sup̄ius narran. K.'s Bench  
 do supponit Et sup̄ hoc p̄dict A. petit  
 Judic' et dampna illa sic cognit' unacū  
 mis' & custag' suis p̄ ipsum circa sectam  
 suam in hac parte sustenti' sibi adjudicari,  
 &c. Ideo cons' est quod p̄dict A. recu- Judic' sig'  
 pet vers' p̄fat C. dampna sua p̄dict ad 50 l. --- die ---  
 superius cogn' nec non sex Libras p̄ mis' &  
 custag' suis p̄dict ex assensu suo p̄ Cur  
 dici Wm Regis nunc hic adjudicat Que  
 quidem dampna in toto se attingunt ad Mia'.  
 56 l. Et p̄dict C. in mia, &c.

## Cogn' Actionem by Admin.

**E**t p̄dict A. B. & C. D. p̄ E. F. Att  
 suum ven' & defend' vim & injur' quan-  
 do, &c. Et dicunt quod ip̄d non possunt  
 dedicere quin scriptum obligatorium p̄dict  
 sit factum p̄fat G. nec quin ip̄d detinent  
 p̄fat H. p̄dict Centum Libr' modo & for-  
 ma p̄out p̄dict H. sup̄ius vers'us eos que-  
 ritur It' cons' est quod p̄d H. recuperet vers'  
 sus p̄fat A. & C. de h'm suum p̄dict Judic' sig' --- die ---  
 nec non 3 l. 10 s. p̄ dampnis suis que su- An. Dom.  
 stinuit tam occone detent'onis debti ill' Geo. Regis  
 quam p̄o mis' & custag' suis p̄ ip̄m cir' quinto.  
 ca sectam suam in hac parte apposit' p̄ Cur  
 Wm Regis hic ex assensu suo adjudicat  
 de bonis & catallis q̄ fuer' p̄d G. tem-  
 pore mortis sue in manibus ip̄orum A.  
 & C. administrand' Si tantum in manibus  
 suis heant Et si tantum non h'ant  
 tunc dampna p̄dict de bonis & catallis Mia'.  
 ipso.

K.'s Bench. ipsozum A. & C. ppr' levand Et iidem A.  
 & C. in mia, &c.

If the Defendant hath pleaded non est factum, and Issue thereupon, and after the Defendant is willing to confess the Action, then enter it thus:

See after in  
 Common  
 Pleas.

Ad quem diem coram D'no Rege apud Westm' vend partes p'dict per Attozid suos p'd Et super hoc p'dict A. relicta verifikatione sua p'dict per ipm' supius ptens' dic' quod ip'd non potest deducere Acc'onem p'd E. supradict' nec quin ip'd debet, &c. (ut primo supra.

See the Nar' Judgment by *Non sum Informatus*, without upon a *Mutatus* Fol. an Imparlance, in Debr. See after with an Imparlance.

Non Inform.

**E**t p'dict B. p C. Attozid suid vend & defend' vim & injur' quando, &c. Et p'd A. per quod p'd B. ad Narr' suam p'd respondeat super quo p'dict' Attozid p're B. dic'it q'd ip'd non est inform' p eund' B. de aliquo respons' p eos B. eis A. in p'missis dand' nec aliquid aliud inde dic' in barram sive p'clusionem Acc'onis ipsius A. p'dict' p quod idem A. remanet inde vers' p'dict' B. indefens', &c. o——o **It** Cons' est Quod p'd A. recuperet vers' p're fat B. defum suid p'd necnon Sexagine & tres

& tres solidi (the Costs usually allowed) K.'s Bench.  
 p dampnis suis que sustinuit tñ occasione des  
 tençonis debi illi qñd p mō & custag' suis  
 p ipm circa sedam suam in hac parte ap- Judic' Sign'.  
 posit' eis A. p Cur' dicti Dñd Regis nunc --- die Nov.  
 hic ex assensu suo adjudicat Et pñd' B. in 1726.  
 mia, &c. Mia'.

See after for one with an Imparlance.

*Note*, Costs upon a Bond only 53 s. be-  
 cause 'tis supposed the Plaintiff may take  
 more Cost out of the Penalty.

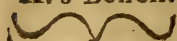
Write as above usqz — indefens', &c. Non Inform'  
 — Ob qđ pđ A. dampna sua plus pñat in case sur  
 B. occasione non pformacōn pmissionē & al. Assumpñt.  
 sumptōn pđ recuperare debeat Sed quia Cur'  
 dict' Dñd Regis nunc hic coram ipso Rege  
 incogn' existit qđ dampna pđ A. occasione  
 non pformacōn pmissionē & Assumpñōn pđ  
 in hac parte sustinuit Itē pcept' est Uic qđ  
 p Sacern' rñcim pbor' & legñum hominum  
 de Ballia sua diligent' inquir' qđ dampna  
 (&c. as in Pil' dicit in Case, only instead  
 of occasione pmiss', say occasione non pforma-  
 cōn pmissionē & assumpñōn pđ &c.

If in Trespass then as next above, only  
 mutatis mutandis, say, occasione Transgrē  
 pđ.

If in Trespass and Assault, then say,  
 occasione Transgrē & Insult' pđ.



K.'s Bench.



If in Trespass, Assault and Imprisonment, say, *occione Transgr' Insult' & Imprisonament p̄d.*

*Et sic de ceteris.*

*Non Inform'*  
with an Im-  
parlance.

*Note,* If your *Non Inform'* be of another Term with an *Imparlance*, you must begin as in others.

*Imparlance.*  
67, 106.

———— *Et modo adhuc diem scilt, &c.* as before (*usq*) *Et idem B. defend vim & injur' quando, &c. Et sup hoc p̄d A. per qđ p̄d B. ad Parr suam p̄d respond, &c. sup quo p̄d Attorū p̄dict B. dic' quod ip̄d non est inform' per eund B. &c. (as before.)*

† 18 Eliz. c.  
14.

*Note,* By the Act for Amendment of the Law, 4 and 5 Ann. It is enacted, that all Statutes of † Jeofails shall be extended to Judgments which shall at any Time be entred upon Confession, *Nil Dicit*, or *Non sum Informatus* in any Court of Record; and no such Judgment shall be reversed, nor any Judgment upon any Writ of Inquiry of Damages executed thereon be staid and reversed, for or by Reason of any Imperfection, Omission, Defect, Matter or Thing whatsoever, which would have been aided and cured by any of the said Statutes of Jeofails in case a Verdict of Twelve Men had been given in the said Action or Suit, so as there be an Original Writ or Bill and

and Warrants of Attorney duly filed, according to the Law as is now used. K.'s Bench.

We will next proceed to Writs of Execution upon the aforesaid Judgments, and upon Judgments by Trial and Verdict.

But first we will see a Writ of *Inquiry of Damages*, where the Judgment is without Trial.

*Note*, the Clerks of the *King's Bench*, when they carry in their Entries, docquet them thus on a Sheet of Paper in Court-Hand; after having taken their Numbers for the Rolls, from the *Nisi-prisus* Office.

Intrañones A. B. gen<sup>d</sup> und Cllico<sup>z</sup> Co<sup>z</sup>d  
Mentris, Arm<sup>d</sup> Capital Cleric<sup>e</sup> D<sup>nd</sup>  
Regis, &c. de Terminio l<sup>co</sup> Trin<sup>d</sup> An-  
no Regni Georgii nunc Regis Magn<sup>i</sup>  
Britannie, &c. duodecimo.

Teste Rob. Raymond, M<sup>st</sup>,

Dors' n. Nil die in debito sur  
Dbl' int' L. M. Assign<sup>d</sup>  
W. B. Ar nuper Wic<sup>e</sup>  
Com<sup>d</sup> S. quer<sup>e</sup> Et S. B. } Rot<sup>o</sup> 97  
als dict' S. B. de W.  
in Com<sup>d</sup> S. Gen<sup>d</sup> tam  
p 4000 l. debet quam  
46 l. p mis<sup>e</sup>

K.'s Bench.

L. n. Non ps' in deho p  
 defen Repl int' R. P.  
 vid Adm S. P. quer } Rotto.  
 Et W. C. Prisonar  
 Def.

S. n. Non Inform in de  
 ho sur mutuat int' T.  
 C. Quer & J. A. tam } Rotto.  
 p 500 l. debit quam  
 63 s. p mis'.

D. n. Inter Sed fa in de  
 ho int' C. S. Quer  
 Et H. L. Def. tam } Rotto.  
 p 155 l. debit quam  
 63 s. p mis'.

Somset n. Non culp in Tnsgr  
 int' A. B. Quer & } Rotto 106.  
 D. E. Def.

Glouc n. Nil dic in deho p  
 100 l. sur Obl int'  
 A. B. Quer alias } Rotto eod.  
 dic' ( & ) D. E.  
 ( & c. ) & p. . p  
 damp & mis'.

And so of the Rest.

Writ



## Writ of Inquiry of Damages.

**G**orgius Dei Gra Magni Britannie Franc & Hibnie Rex Fidei Defens, Not to be signed at the  
 &c. Vic S. Saltem Cum A. B. nuper in Cur Office, but  
 nostra coram nobis apud Westm per Willa sealed.  
 sine brevi nostro implicasset C. D. in Custod  
 Mar Marele nostre coram Nobis existend  
 p eo videlet quod cum pdict C. D. primo die  
 Jan Anno Regni nostri duodecimo apud, Note, If it is in  
 ( &c. and so on as it is in the Declaration the Declara-  
 verbatim, only saying) Anno Regni nostri tion Anno Do-  
 11<sup>o</sup> or 12<sup>o</sup> (instead of Anno Regni mini millesti-  
 Dai Regis nunc, as in the Declaration, mo septingen-  
 till you come to) Ad dampnum ipsius A. . . tesimo vi-  
 Librarum ut dixit Et inde pduxit sectam, &c. cesimo sexto:  
 Taliterq; in eadem Curia nostra coram nobis Insert it in  
 pcess fuit quod p A. dampna sua versus pstat the Writ, and  
 \* C. occasione pmiss' pdict recuperare debeat not the  
 Sed quia Cur noſte coram nobis incogni ex Words Anno  
 istit que dampna idem A. occasione p suffi Regni, &c.  
 nuit Jo tibi pcipimus quod p Sacra duodeci \* If against  
 phorum & legalium hominum de balliva tua an Executor,  
 diligent inquit que dampna idem A. tam oc- versus pſat  
 zone pda' quam p mis' & custag' suis p ipsi C. (the Exe-  
 circa sect' sua in hac parte appoit sustinuit & cutor) occa-  
 inquisitionem quam inde feceris nobis apud sione pramissis  
 Westm die Mercurii pſor' post tres septimas pſat' de bo-  
 nas sancti Michis [the Day of the Return] nis & catallis  
 sub sigillo tuo & sigillis eorum p quorum Sa qua fuer' (Te-  
 cra Inquisitione ill cepis constare fac & Heas tator) tempo-  
 tibi tunc hoc bſe Teste R. R. Mil apud re mortis sue  
 Westm 12 die Junii Anno Regni nostri in manibus ip-  
 duodecimo. sus C. admi-  
 Ventris nistrand', si  
 debeat, sed, tantum in ma-  
 &c. as herein. nibus suis ha-

The

K.'s Bench.



The Form of a Spa' ad Testificand' upon  
this Writ of Inquiry, for the Plaintiff's  
Witnesses.

You sign and  
seal this  
Writ.


**G**orgius Dei Gratia Magn' Britan'  
Franc' & Hibnie Rex Fidei Defensor,  
(*et.*) J. S. S. T. (naming your Witnesses;  
You may not insert more than Four) sal-  
tem Precipimus vobis & cuilibet vestrum qd  
omnibus & singulis negotiis & excusationibus  
quibuscunque cessand' sitis & quilibet vestrum  
sit in propriis personis vestris coram T. B.  
Ar' Wic' Comd' S. antejus subvic' die . . . .  
die Octobris prox' futur' apud Hospitium cus-  
juldam J. T. vocat' le Scar-Inn in L. in Comd'  
tuo p'dict' ibidem ad testificand' ea omnia &  
singula secundum notitiam & scientiam ve-  
stras que scriberitis vel aliquis vestrum scribe-  
rit in quadam actione in Curia nostra coram  
nobis jam pendent' inter H. K. Quer' &  
H. H. Def. \* de p'lito conveni' fract' in quo  
quidem p'lito quoddam breve nostrum de In-  
quir' de dampnis eidem Wic' nostro S. p' nos  
& Curia nostra coram nobis miss' & direct' cor-  
ram eodem Wic' in forma juris adtunc & ibi-  
dem est exequend' & hoc nullatenus omittatis  
nec aliquis vestrum omittat sub pena 100 l.  
Teste R. R. Mil, &c.

\* De p'lito  
Transgress', or  
Transgress'  
super Casum,  
&c. as the  
Case is.

Ventrīs.

Upon this you must fill up a Ticket to  
leave with each Witness.

K.'s Bench.

By Virtue of a Writ of *Subpœna* to you directed and herewith shewn unto you,  The Ticket. you are personally to be and appear before R. B. Esq; Sheriff of the County of S. or his Under-Sheriff, on *Friday* 12th Day of this instant *October*, at two of the Clock in the Afternoon, at the House of Mr. J. T. commonly called the *Star-Inn* in *L.* then and there to testify the Truth according to your Knowledge upon a Writ of Enquiry of Damages to be then and there executed in a certain Cause now depending between H. K. Plaintiff and H. H. Defendant in a *Plea of Covenant broken*: On the Part of the Plaintiff; and this you are not to omit upon Pain of 100*l.* dated the 3d of *October*, in the 12th Year of the Reign of our Sovereign Lord George by the Grace of God, &c. *Annoq; Domini* 1725.

*Note also*, That you must first give the Defendant or his Attorney Notice of your Intention, to execute the Writ of *Inquiry* after this Manner:

M. R.

A. ver'us B. in Case.

**P**RAY take Notice of the Executing a Writ Note, You of Inquiry of Damages in this Cause must always on the 10th Day of this instant July, at Ten of give 8 Days the Clock in the Forenoon of the same Day, at Notice of the Court-House at Westminster. [If it be your Executing the Enquiry.



K.'s Bench. in *Middlesex* and Term-Time; otherwise  
 you must name the Time, the Sign of the  
 House, and the Town.]

June the 17th.  
 1726.

From your Servant.  
 H. Y.

The Entry and Continuance of the Judg-  
 ment on the Roll, upon this Writ of  
*Inquiry*. Vide antea.

**A**D quem diem coram Dño Rege apud  
 Westm̄ veni p̄dict A. B. per Attorn̄  
 suum p̄dict Et Vic̄ videlz P. M. Mit Vic̄  
 \* If in London, \* Com̄ S. p̄dict retorn̄ quandam Inquisitionē  
 say Civitat' coram † eo apud Castrum V. in Com̄ † S. p̄  
 London. 10 die Julii Anno Regni Dñi Georgii nunc  
 † Eis. Regis Magne Britan̄, &c. duodecimo p̄ Sa-  
 † Guildball Ci- cta duodecim p̄borum & legalium hominum  
 vit' London sci- de § Ballia sua cap̄ p̄ quam compt̄ existit q̄s  
 tuat' in Pa- p̄ A. B. sustinuit dampna occone p̄miss. p̄  
 roch' Sancti ultra mis̄ & custag' sua p̄ ipsum circa sectam  
 Lawrentii in suam in hac parte appōit ad 100 l. & p̄ mis̄  
 veteri Judais- custag' ill̄ ad § sex den̄ Ideo cons̄ est q̄s p̄  
 mo in Warda dem Civitatis. A. recup̄t verlus p̄fat C. dampnū p̄ p̄ Inqui-  
 de Cheap ejus- § Ball'is suis. s̄con̄ p̄s sup̄ius compt̄ necnon 14 l. 19 s. &  
 dem Civitatis. § 27 s. 4 d̄ 6 d. p̄ mis̄ & custag' suis p̄ ipsum circa sect  
 suam in hac parte appōit eidem A. p̄ Cur̄ die  
 Dñi Regis nunc hic ad requisitōn̄ suā de in-  
 tro adindicat̄ que quidm̄ dampna in toto se-  
 ating' ad 115 l. Et p̄dict C. in mis̄, &c.

If it be in Trespass, you say Capiatur, &c.

Inerm'.

## Of Arresting Judgments.

**B**Y the Course of the Court after a Verdict there must be a Rule given (which is out in Four Days) before the Plaintiff can enter his Judgment or take out Execution; which Time is given for the Defendant to move in Arrest of Judgment.

If the Cause be tried within Term, the Rule may be given the Day after the Trial, the *Postea* being indorsed and marked.

If the Sitting after the Term, or at the Assizes, the Rule cannot be given until the first Day of the ensuing Term.

*And note,* That by the Rules of the Court no Counsel ought to move any Thing in Arrest of Judgment; except the Roll whereon the Judgment is entred, or the *Postea*, be in Court.

And it is said to be a sufficient Matter to arrest a Judgment (when sufficient Notice of the Trial was not given, according to the Course of the Court) so as to obtain a Rule for a new Trial upon the Old Pleadings.

Also one may speak in Arrest of Judgment given on a *Nihil dicit* after the Writ of *Inquiry of Damages*: (Upon which Writ the like Rule is to be given as upon a *Postea*.)

And no Judgment ought to be entred until the Costs be taxed, and the Judgment signed by the Secondary of the Office.

After

**K.'s Bench.** After Judgment by Confession, or *Nil dicit* entred, or after a Verdict at the Assizes, and Judgment thereupon, the Writs of Execution are made out, which are of three Sorts.

1. Either against the Body, as a *Capias ad satisfaciendum*.

2. Or against the Goods, as a *Fieri facias*.

3. Or against the Lands, as an *Clegit*.

The several Forms whereof follow.

*But Note*, That if you once charge the Body in Execution, you have no Remedy against the Goods or Lands, unless the Defendant escape voluntarily, or be discharged by Privilege of Parliament. *Stat. 1 Jac. Cap. 13.*

*Ca 'Sa' in Debt.*

You only  
seal this  
Writ.

\* If there be  
an *Alias dist'*  
you must re-  
cite it.

**G**regorius Dei Gratia Ragne Britannie  
Franc & Hibernie Rex fidei Defens',  
et. Vic S. Salutem Precipimus tibi quod Ca-  
pias C. D. \* si invent' fuerit in ballia tua  
& eum salvo custod ita quod Habeas corpus  
ejus coram nobis apud Westm die ... et.  
(the Return) ad satisfaciend A. B. de vigin-  
ti libris de debito [the Debt in the Decla-  
ration] quas idem A. B. nuper in Cur' nra  
coram nobis versus eum recuperavit nec  
non de triginta solidis octo denar' [the Costs]  
qui



qui eidem A. B. in eadem Cur' nostra coram K.'s Bench. nobis adjudicat' fuer' pro dampnis suis que sustinuit tam occōne detencion' debi illius quam pro mis' & custag' suis p ipm circa Sextam suam in ea parte appōit Unde predict' C. D. convict' est sicut nobis constat de Recordo. Et habeas ibi tunc hoc breve Teste R. Raymond Mil apud Westm ... die .... Anno regni nrd duodecimo.

Ventris.

*Note,* That if the Action was by way of Original, you must make your Ca' Sa' returnable coram nob in, ———— &c. ubicunque tunc fuerimus in Anglia.

Ca' Sa' in Case upon Assumpsit.

**G**eorgius Dei Gratia (&c. as before) ad satisfaciend' A. B. de 20 l. pro dampnis suis que sustinuit tam occōne non performaconis quarundam promission' & Assump' eidem A. p pfat C. nup fact quam p mis' & custag' suis per ipsam circa sextam suam, (ut antea.)

Ca' Sa' in Trespass upon the Case General.

Ad satisfaciend' A. B. de 20 l. p dampnis suis q sustinuit tam occōne cujusdam Transgr' super Calum eidem A. per pfat C. nuper illat' quam p mis' & custag' suis p ipm' circa sextam suam in hac parte appōit, &c. (ut antea.)

In



## In Trespass and Assault.

Tam occasione cuiusdam transgr' & insult' p  
ipm' C. sup eund' A. nuper fact' quam pro  
mis' & custag', &c.

## In Trespass only.

Ad satisfaciend' J. B. de 20 l. p dampnis  
suis q' sustinuit tam occasione cuiusdam Transgr'  
eidem A. p p'fat C. nup illat' qua' p mis',  
&c. (ut antea.)

## In Covenant say.

Tam occasione cuiusdam convençion' fract'  
eidem A. p p'fat C. nuper fact' quam p  
mis', &c. (ut in al.)

## In Ejectment say,

Tam occasione cuiusdam Transgr' & Ejec-  
tion' firme eidem A. p'fat C. nuper illat' qm'  
p mis', &c. (ut in al.)

## Ca' Sa' for several Damages in Trespass.

**G**regorius Dei Gra ( &c. ) Vire S. saltem  
Precipimus tibi qd capias C. D. nup de  
( &c. ) & E. F. nup de ( &c. ) Ad satisfaciend'  
A. B. duos solid' p dampnis suis q' h'uit occasione  
capt'ionis & abducçonis sex Obvium ejusdem A.  
Et etiam eosdem C. & E. ad satisfaciend' eidem  
A. de sex libris q' eid' A. in Cur' nra coram  
nobis apud Westm' adjudicat' fuer' p mis' &  
custag'

ruffag' suis occone Transgr' pō eidem A. per K.'s Bench.  
 p̄fat C. & E. vi & armis & contra pacem n'ram  
 apud G. in Com̄ tuo illat unde convicti sunt  
 sicut nobis constat de Recor̄do Et heas (&c.)

*Testat' Ca' Sa' in Debt.*

**G**orgius Dei Gra' Magne Britannie If the Decla-  
 Franc & Hibnie Rex Fidei Defens ration be laid  
 (&c.) Wic L. saltem Cum Wic n'ro S. nup in London, or  
 precepimus quod capet C. D. si invent' fuisse in any County,  
 in Wallia sua & et̄o salvo custod ita quod he Cause tried  
 ret corpus ejus coram nobis apud Westm there, and  
 ad certū diē jam p̄terit ad satisfaciend A. the Defen-  
 B. de 20 l. de debito quas idem A. B. nup in dant not be-  
 Cur' n'ra coram nobis versus eum recupa- ing to be  
 vit necnon de 30 s. & 8 d. qui eis A. B. in found there,  
 ead Cur' n'ra coram nobis adjudicat fuerunt thena Ca' Sa',  
 p dampn' suis q̄ sustinuit tam occon deten- awarded to  
 conis debi ill' quam p m̄s' & custag' suis the Sheriff of  
 p ipm' circa sectam suam in hac parte appōit London, &c.  
 Unde p̄ed C. D. convict' est sicut nobis con- who returns  
 stat de Recor̄do Dēusque Wic nostr' S. ad non est invent',  
 diem ill' nobis retor̄nd qđ pō C. non fuit in- and thereup-  
 vent' in Wallia sua super quo ex parte p̄ed onthis Writ is  
 A. in Cur' nostra coram nobis sufficient tes- made out and  
 tat est quod pō C. latit & discurt in Com̄ directed to  
 tuo Iō tibi p̄ecipimus quod capias eum si the Sheriff  
 invent' f̄dit in Wallia tua Et eum salvo of the Court-  
 custod ita quod habeas corpus ejus coram no- ry where the  
 bis apud Westm die ... p̄t' post .... Ad Defendant  
 satisfaciend p̄fat A. de debito & dampnis pō sculks.  
 Et heas (&c.) T. &c.



K.'s Bench.

Ca' Sa' against the Bail in Debt.

**G**orgius (et.) Precipimus tibi qđ capias C. D. de, et. E. F. de (et.) Nucapē G. H. si, (et. as before) ad satisfaciendū A. B. de 200l. de debito necnon de 4l. pro dampnis suis (et. as before for Debt) Unde idem G. convict' est sicut nob' constat de Recordo Et unde in eadem Cur' nra coram nobis apud Westm' considerat' est quod p'dict' A. heat execuconem suam versus p'fat' C. & E. pro debiti & dampnis p'dict' juxta vim formam & effectum cujusdam Recogni per ipsos C. & E. in Cur' nra coram nob' pro p'fat' G. ads' p's A. cognit' sicut nobis filit' constat de recordo Et heas, et. (ut in ap.)

*Note,* There must be a Cā Sā against the Defendant, and a Non est inventus returned and filed before the suing forth this Writ against the Bail. And it must be by the Sheriff of the County where the Action is laid.

*Vide post. Sci' Fac'.*

Ca' Sa' against the Plaintiff for Costs upon a Nonsuit.

If you take out a Ca' Sa', and imprison the Defendant thereupon, you cannot have a Fi' Fa. or an Elegit.

Quod capias A. B. et. — Ad satisfac' D. E. juxta formā Statuti in humōi casu inde nup' edit' & provis' de 5 l. eide' D. pro mis' & custag' suis in Accone quadam in Cur' nra coram nobis versus ipm D. ad sect' p'dict' A. de p'lito debiti [or Trans' sup' Calum, as the Case is] adjudicat' Unde idem A. postmodum

modum Acc'onem ill' non fuit p'osecut' Et K.'s Bench  
 heas ibi tunc hoc b'ed Teste, (et.)

Ca' Sa' for Costs against the Plaintiff af-  
 ter a Verdict.

Ad satisfac' D. E. de 30 s. eidem D.  
 juxta formam Statuti inde nup edit' & p'bis'  
 p'ro mis' & custag' suis p' ipm circa defen-  
 sionem suam in quadam Acc'one debi [as the  
 Action is] ad sen' p'dict A. in Cur' p'dict  
 djudicat' Et heas, (et. ut in al.)

Note, That if you make out a Ca' Sa'  
 after a Sed Fa' hath issued, then after  
 the Words sicut Nobis constat de Recordo,  
 you must add,

— Et unde in eadem Cur' nra co-  
 ram Nobis cons' est Quod p'dict A.  
 habeat Execu'conem versus p'dict D. de  
 debito & dampnis p'dict' Et habeas, et.

Ca' Sa' for an Administrator.

Ad satisfaciend' A. B. Ceid' Administrat'  
 omnium & singulorum bono' & catall' Jurid' &  
 Creditorum que fuer' C. D. nup defunct' qui  
 obiit intestat' de decem libris de debito nec-  
 non (et.) p' dampnis (ut in al') sicut nob'  
 constat de Recordo Et unde in eadem Cu-  
 ria nostra coram nobis cons' est quod p'd A.  
 inde heat execu'conem suam. Et heas (et.  
 ut in al'.)

For an Executor.

Ad satisfaciendū A. B. Gen<sup>d</sup> Executori  
Testi & ult<sup>a</sup> Voluntat<sup>e</sup> C. B. defunct<sup>i</sup>  
in em libris (sc. ut antea.)

*Fieri Facias in Debt.*

Not to be  
signed at the  
K.'s Bench  
Office, but  
only sealed.

63 s. usual  
Costs on Mu-  
tuation, and  
53 s. on Bond

**G**orgias Dei Gra<sup>ti</sup> Magne Britannie  
Franc<sup>e</sup> & Hibnie Rex Fidei Defens<sup>or</sup>  
&c. Vic<sup>us</sup> S. saltem Precipimus tibi quod de  
bonis & catallis C. D. (and if it be upon a  
Bond, you must say, alias dict<sup>a</sup>, as in the  
Obl.) in Ballia tua Fieri Fac<sup>ias</sup> centum li-  
br<sup>as</sup> quas A. B. nuper in Cur<sup>ia</sup> n<sup>ost</sup>ra coram  
nob<sup>is</sup> apud Westm<sup>onasterium</sup> recuperavit versus eum de  
debo necnon 30 s. qui eidem A. nup<sup>er</sup> in eas-  
dem Cur<sup>ia</sup> n<sup>ost</sup>ra coram nobis adjudicat<sup>us</sup> fuer<sup>it</sup>  
p<sup>ro</sup> dampnis suis que sustinuit tam occasione  
detentionis debiti ill<sup>ius</sup> quam p<sup>ro</sup> mis<sup>is</sup> & custag<sup>iis</sup>  
suis p<sup>ro</sup> ipsum circa lectam suam in hac parte  
appoit<sup>us</sup> unde idem C. D. convicia<sup>us</sup> est sicut  
nobis constat de Recordo Et denar<sup>us</sup> ill<sup>ius</sup> he-  
as coram nob<sup>is</sup> apud Westm<sup>onasterium</sup> die Mercurii  
pr<sup>imo</sup> post Quinden<sup>am</sup> Pasche Ad reddend<sup>um</sup> p<sup>ro</sup>stat<sup>us</sup>  
A. de debo & dampnis p<sup>ro</sup>dict<sup>is</sup> Et heas ibi  
tunc hoc h<sup>ab</sup>ere Teste, &c.

If you first sue out a *Fieri Facias* against  
the Defendant's Goods, and levy Part  
thereof, and not the Whole, then you may  
afterwards have a *Ca. Sa.* against the Defen-  
dant's Body, or a *2d. fi. fa.* or an *Elegit* for the  
Residue, but if you first imprison upon  
a *Ca.*



a *Ca. Sa.* you cannot have a *Fieri Facias*, K.'s Bench.  
or an *Elegit*.

*Fieri Fac.* in Case upon Promise.

— As before usq; — p dampnis suis  
que sustinuit tam occasione non pformacione qua-  
rundam pmissionum & assumptionum eidem A. p  
pfat C. nuper fact' quam pro mis' & custag'  
suis (sc. as before.)

In Covenant.

— As before usq; — pro dampnis suis  
que sustinuit tam occasione fractionis cuius-  
dam convenconum int' pfat C. & pdict A nu-  
per fact' quam p mis' & custag' suis p ip-  
sum circa sedam suam in hac parte appoit  
(sc. ut antea.)

In Ejectment:

Que sustinuit occasione cuiusdam Transgr' &  
Ejectionis firme pfat A. p pced C. vi & ar-  
mis & contra pacem nr'am apud E. in Com  
tuo illat' (sc.)

In Trespass.

Occasione cuiusdam Transgr' eidem A. p pō  
C. vi & armis (sc. ut pr' antea.)

Against an Administrator.

Quod de bonis & catallis q; fuer' C. D.  
defuna' tempore mortis sue in manibus &  
L 3 custod

K.'s Bench *custod* E. F. *Administrat'* omnium & singulorum bonorum & Catallorum Jurium & Creditorum quod fuerit predictus C. tempore mortis sue qui obiit intestatus, &c. existens in ballia tua Fieri fac' 100 l. quas A. B. (&c.) Unde convictus est sicut nobis constat de Recordo si tantum in manibus suis habeat & si tantum in manibus suis non heat tunc dampna predicti de bonis & catallis ipsius E. F. propter Et denariis illi heas (&c. ut in ap.)

*Note*, If it be against an Executor, you say, Quod de bonis & catallis quod fuerit A. B. defunctus nuper dictus (&c.) tempore mortis sue in manibus & custodis C. D. Executor Testis & ulte voluntatis predicti A. in ballia tua Fieri fac' (&c.)

*Fieri Fac.* against the Plaintiff for Costs to the Defendants.

Quod de bonis & catallis A. B. in ballia tua Fieri fac' decem libras que C. D. juxta formam Statuti inde nuper editi & probis in Curia nostra coram nobis adjudicatus fuerit pro misis & custagiis suis circa defensionem suam in quadam actione Transacti (Transacti super Calum, &c.) ad sectum predictum A. Et denariis illi heas coram nobis apud Westm. die (&c.) ad reddendum placitum C. pro misis & custagiis suis predictis & heas (&c. ut in ap.)

## A Testat' Fieri Fac' in Debt.

Georgius Dei Gra (sc.) Vic B. saltem  
 Cum Vic n'r † S. nup p'cepimus quod de  
 bonis & catallis C. D. in ballia sua Fieri  
 fac' 100 l. quas A. B. nup in Cur' nostra  
 coram nobis apud Westm' recuperavit vers'  
 eum de debito necnon 30 s. qui eidem A.  
 nup in eadem Cur' n'ra coram nobis ad-  
 judicat' fuer' p' dampnis suis que sustinuit  
 tam occ'one detencon' debiti ill' quam pro  
 mis' & custag' suis p' ipsum circa legem sus-  
 am in hac parte app'it Unde convic' est si-  
 cut nobis constat de Recordo Et denar' ill' \* he. \* H' erent.  
 ret coram nobis apud Westm' ad certum di-  
 em jam p'teritum ad reddend' p'fat' A. B. de  
 debito & dampnis p'd \* Deulq' Vic n'r † S. \* Distique.  
 ad diem ill' nobis retroz' quod p'ed C. nulla † London.  
 fuit bona seu catalla in Ballia sua unde  
 denar' ill' Fieri fac' \* potuit sup' quo ex parte \* Potuer'.  
 p'dict' A. in eadem Cur' nostra coram nob' suf-  
 fic' testatum est q'd p'd C. bona & catalla hec  
 sufficiend' in ballia tua unde denar' p'd Fieri  
 fac' possis Ideo tibi p'cipimus quod de bonis  
 & catallis p'd C. in ballia tua Fieri fac' p'd  
 100 l. de debito & 30 s. p' dampnis p'd & de-  
 nar' ill' heas coram nobis apud Westm' die  
 Sabti pr' post Crastin' Ascencon' Dni ad  
 reddend' p'fat' A. B. de debito & dampnis p'-  
 dict' in forma p'ed Et heas ibi tunc hoc bre  
 Teste, (sc.)

If you take out a Ca' Sa' or Fi' Fa' and  
 they take no Effect, you may have an  
 Elegit.



K.'s Bench.

## Elegit in Debt.

For Signing  
at the Office  
you pay 1 s.  
8 d.

Sealing 7 d.

An *Elegit* is  
for all the  
Defendant's  
Chattels but  
his Oxen  
and Beasts of  
Plough, and  
half of his  
Lands.

Westm' 2. c.  
18. Stat. 3  
Edw. 3. c. 18.

**G**regorius Dei Gratia Magne Britani-  
nie Franc & Hibernie Rex Fidei  
Defensor, &c. Vice S. salutem Cum A. B.  
nup in Curia nra coram nobis apud West-  
mon' p' Nil sine brevi nro ac p' Iudic' esultod'  
Cur' recuperavit verius C. D. 100 l. de de bo-  
necon 40 s. pro dampnis suis que sustinuit  
tam occasione detencion' debiti ill' quam pro  
mis' & custag' suis p' ipsum circa sectam su-  
am in hac parte appoi' unde idem C. D.  
convict' est sicut nobis constat de Recordo  
Et quia p'd A. venit in Curia nra coram  
nobis & Elegit sibi liberari omnia bona  
& catalla p'd C. preter boves & afros de  
caruca sua & simili' medietat' ord' & sin-  
gulozum terrarum & Tentozum p'dict C.  
in Valliva tua tenend' sibi & assignatis su-  
is (ut liberum tenementum suum) juxta  
formam Statuti inde edit' & provis' quo-  
usque debi' & dampna p'dict plenar' in-  
de levaverit Ideo tibi precipimus quod p'fat  
A. omnia bona & catalla p'dict C. in Val-  
liva tua p'ter boves & afros de caruca sua &  
simil' medietat' omnium terrarum & tento-  
rum p'dict C. in Vallia tua de quibus p-  
dict C. . . . . die . . . . . Anno regni  
nri quarto quo die Iudicium p'dict redditum  
fuit vel unquam postea fuit leic' p'fat A. si-  
ne dilacione Liberari fac' p' ronabil' p'cium  
& Extent' Tenend' sibi bona & catalla p-  
dia' ut hoc & catalla sua prop' Acetiam  
tenend' medietat' terr' & tenement' p'dict ut  
librum tenement' suu' sibi & Assign' suis  
juxta

juxta formam Statut p̄dicti quousque debet K.'s Bench.  
 & dampna p̄dicti inde levaverit Et qualiter hoc  
 breve ur' fueris execut nobis apud Westm  
 die (sc.) constare facias sub sigillo tuo & sigil-  
 lis eorum p̄ quorum Sacram̄ Extent' & ap-  
 preciacon̄ ill feceris mittas unacum hoc bre-  
 ve T. R. R. &c.

*Note*, That if you execute an *Elegit* and  
 file it, you are barred from taking out  
 any other Execution from that Judg-  
 ment afterwards, unless evicted. *Vide*  
*Stat. 32 H. 8. cap. 7.*

If upon this Writ Goods only are levi-  
 ed, (because of no Lands) and they  
 are not enough, you may have any  
 other Writ, this being in Effect but a  
*Fi. Fa.*

*Quere*, if Lands be extended and not suf-  
 ficient.

*Elegit* in Debt for a Residue *post Fieri Fac.*

Georgius, &c. Cum A. B. — nuper in  
 Cur' nostra (sc. reciting the Recovery as  
 before usque) sicut nob̄ constat de Recordo <sup>14 Ed. 4. 11.</sup>  
 Cumque sup̄inde p̄ h̄d nrm̄ nuper prece- <sup>47 Ed. 3. 36.</sup>  
 pinus quod de bonis & catallis' &c. (reci- <sup>14 H. 7. 28.</sup>  
 ting the whole Writ of *Fi. Fa.*, and the  
 Return) Posteaq; p̄dict A. venit in Cur'  
 nra (as before usq;) juxta formam Statuti  
 in humod casu inde edit & p̄bis quo-  
 usq;

K.'s Bench. usq; 20 l. resid' debiti & dampn' p'dict' ples-  
 nar' inde leuabit Ideo tibi precipimus quod  
 omnia bona (sc. as before usque) vel un-  
 quam postea fuit seisit' p rationabile pre-  
 tium & extent' tenend' (sc. as before) iuxta  
 formam Stat' inde edit' & provis' quos  
 usque p'dict' 20 l. assid' debet & dampn' p'dict' inde leuabit Et qualiter (sc. as before.)

*Elegit* after an *Elegit*, upon Discovery of  
 more Lands.

Georgius, &c. Cum A. B. nuper in Cur-  
 nra coram nobis apud Westm' (sc. reciting  
 the first Writ usque) quousque debit' &  
 dampn' p'dict' inde leuabis Et qualiter pres-  
 cept' nostrum fores execut' nobis apud  
 Westm' die (sc.) constare fac' Tuq; ad  
 diem ill' nobis retorn' quandam Inquisitionem  
 coram te apud Castrum E. (tli die) ult'  
 preterit' p Sacm' duodecim, (sc.) cap't p  
 quam compert' existit quod p'dict' C. fuit  
 seisit' in dinco suo ut de feodo tempore res-  
 cuperacion' debi p'dict' de Manio de (sc.  
 reciting the Return of the Inquisition)  
 Et quia jam datum est nobis intelligi qd  
 p'dict' C. tempore Iudicii p'dict' reddidit &  
 postea habuit & modo het diuersa alia Ma-  
 neria terras & ten'ta ultra ea que in retorn'  
 p'specificat mentionantur quor' quide' ma-  
 nerior' terrar' & ten'tor' alior' medietat' in  
 execucone pro citiori recupacone debi p'dict'  
 habere quoq; debet Unde ide' A. nobis hu-  
 millime supplicabit quod iuxta Juris exi-  
 gent' ill' ita Here queat Tibi igitur p'cipi-  
 mus quod tam aliam medietatem omnium  
 aliis



aliozū Manerioꝝ terrarū & tenitoꝝ ipsius K.'s Bench:  
 C. quam illoꝝ quozū medietas in ex-  
 ecutione pro solucone debet p̄dict' prius exten-  
 erit in Balliva tua sicut in presentia p̄-  
 fect C. ad inde p̄muniendū si interesse volu-  
 erit p̄fect A. liberari facias p̄ rōnabile  
 pretium & extenē tenendū eidem A. & assignā  
 suis ut liberum tenētum suum quousque p̄-  
 dict' centum libꝛe plenū fuerint lebat' Et de  
 eo quod deinde feceris nobis apud Westm  
 die . . . . . (sc.) sub sigillo tuo & sigil-  
 lis eozū p̄ quozū Sacrum Extent' & ap-  
 p̄ciacōn' ill' feceris mittas una cum hoc bꝛ  
 Teste R. Raymond (sc. ut in al')

## A Writ of Possession.

**G**orgius Dei Gra Magne Britannie  
 Franc' & Hibernie Rex Fidei Defens'  
 &c. Vic' S. salutem Cum A. B. nuper in Cur'  
 nostra coram nobis apud Westm p̄ billam  
 sine brevi nostro ac p̄ Iudic' ejusdem Cur'  
 recuperavit versus C. D. Terminū suum ad-  
 huc ventur' de & in tribus messuagiis vi-  
 ginti & quatuor acris terre (\* &c.) cum p̄tin' \* As in the  
 situat' (+ &c.) que quidam E. F. tertio Declaration.  
 die (&c.) Anno (&c.) [as in the Declara-  
 tion] eidem A. dimisit ad terminum annoz  
 qui nondū p̄terit videlicet a tricesimo die (\*\* Ibid.  
 &c.) usq; finem & terminū septem annoz ex On this  
 tunc p̄or' sequen' & plenar' complendū & fi- Writ the  
 niendū Virtute ejus quidā dimissionis idem Sheriff may  
 A. in p̄d' tria messuag' (&c.) cum p̄tin' intra break open  
 vit & fuit inde possessionat' quousque p̄d' C. Doors, and  
 postea scit eodem tertio die (&c.) Anno give Possessi-  
 (&c.) p̄dict' Wi & armis &c. in p̄dict' tria mel- on, for after  
 suag' (&c.) cum p̄tin' in & sup' possession' p̄d' A. Judgment,  
 inde intravit & ipm A. a firma sua p̄dict' it is not the  
 terminū House of Te-  
 fendant.

K.'s Bench. termin' suo pō nondum finit' ejecit expul-  
 lit & amovit Ideo tibi p̄cipimus quod p̄stat  
 A. possession' suam Termin' sui p̄dict' ad-  
 huc ventur' de & in pō tribus messuag' &  
 \* viginti quatuor acr' terre cum pertin' (et.)

\* If contain- Habe fac & qualif hoc b̄d n̄m fueris  
 ing more A- execut nobis apud Westm' die (et.) cons-  
 cres than in stare fac Et heas ibi tunc hoc breve Tes-  
 the Declara- te (et.)  
 tion, it is er-  
 roneous

Thus you have seen the Form of se-  
 veral Writs of *Execution* after Verdict  
 or Judgment.

Next follow some other Writs and  
 Procefs, which you may often have  
 Occasion to make out, viz.

### *Attach' Privileg'.*

An Attachment of Privilege for a Clerk  
 of the *King's Bench*.

By Stat. 12 **G**regorius Dei gratia, (et.) Nic S. salutē  
 Geo. Affida- **P**recipimus tibi quod attach A. B. C.  
 vit must be D. E. F. G. H. I. K. L. M. N. O. et. (for  
 made, that you may put in a great many) si invent  
 the Cause of fuerint in Palliva tua & eos salvo custod  
 Action is 10 l. ita quod heas corpora eorum coram nob' a-  
 or above, to pud Westm' die . . . p̄r' post . . . ad res-  
 hold the De- spondand A. B. Gen' und Clericorum Cord  
 fendant to spondand A. B. Gen' und Clericorum Cord  
 Bail. Uentris Arm Capital Clerici noster ad p̄lita  
 in Cur' nostra coram nobis irrotuland als  
 If bailable signd iuxta Libertat' & Privileg' p̄ humōi  
 insert the capital' Clerico & ejus Clericis a tempore  
 Acetiam. cūs contrariū memoria hominum non exte-  
 rit

scit usitat & approbat in eadem de placito K.'s Bench.  
Transgr Et heas ibi tunc hoc h<sup>o</sup>, Teste  
R. R. &c.

An Attachment for an Attorney of the  
*King's Bench.*

Ad respondens E. E. Gen<sup>d</sup> und Attoz<sup>d</sup>  
in Cur<sup>a</sup> nostra coram nobis existend<sup>u</sup> juxta  
libertatem & privileg<sup>u</sup> p<sup>er</sup> humod<sup>u</sup> Attoz<sup>d</sup> a  
tempore cujus contrarii (&c. as before)

*Note, No Pleading the Stat. Limitat. to  
an Attorney's Bill.*

An Attorney jointly sued with other  
Persons, or as Executor or Admini-  
strator, loses his Privilege.

Certiorari pro omnibus Querelis & om-  
nibus Attach'.

Georgius Dei gratia (&c.) Mafori (&c.)  
salutem Volentes certis de Causis Certio-  
tari [ tam ] de omnibus Querelis in Cur<sup>a</sup>  
nra coram vobis seu aliquo vestrum vers<sup>u</sup>  
C. D. ad sectam A. B. levat<sup>u</sup> sive affirmat<sup>u</sup>  
(quam de quibuscunque Attach<sup>u</sup> sup<sup>er</sup> Quere<sup>l</sup>  
ill<sup>u</sup> sive eorum aliqua in manibus E. & F.  
(&c.) seu eorum alterius fact<sup>u</sup> [ vobis & cui-  
libet vestrum mandamus quod Quere<sup>l</sup> pdict<sup>u</sup>  
(ac Attach<sup>u</sup> p<sup>ro</sup> & eorum quodlibet) cum omni-  
bus ea (sive eorum aliquod) tangend<sup>u</sup> coram  
nobis apud West<sup>er</sup>nd<sup>u</sup> die (&c.) prox<sup>im</sup> post  
(&c.) adeo plene & integre prout coram vo-  
bis seu aliquo v<sup>ost</sup>ro resident<sup>u</sup> mittatis unacum  
hoc



K.'s Bench. hoc breve ut ulterius inde fieri fac qđ de Jure & secundum Legem Regni nostri Angl fore viderimus faciend Teste, &c.

*Habeas Corpus returnable in Court.*

To remove a Cause out of the Sheriff's Court, London

**G**orgius, (&c.) Majori Alder & Vice Civit London salutem Precipimus vobis qđ corpus C. D. in Prisona nostra sub custod vestra vel alicujus vestrum ut dicitur detent sub salvo & secur conduct una cum die & causa captionis & detentionis sue quocunque nomine idem C. censeat in eadē Heatē coram nobis apud Westm die . . . . . pr' post . . . . . ad respondend A. B. de plico debiti Ac ulterius ad fac & rec ea omnia & singula que Cur nostra coram nobis de eo ad tunc & ibidem cons in hac parte Et Heatē ibi tunc hoc breve Teste R. R. apud Westm die—anno regni nostri 12.

Ventris.

Upon Return of the *Habeas Corpus*, the Plaintiff may give a Rule for a *Procedendo*, except the Defendant put in Bail within Four Days in Term, and Six Days in Vacation.

*Habeas Corpus* returnable immediately before the Chief Justice.

As before usq—quocunque nomine idem C. censeat in eadem Heatē coram dilecto & fidel nostro Robto Raymond Mil Capitā Justic nostro ad Plita in Curia nostra corā nobis tenend assign apud Cameram suam suat

tuat in Serjeant's Inn in Fleetstreet London K's Bench.  
 immediate post receptiō hujus bꝛe ad fac  
 & recipiendū ea omnia & singula que idem  
 Capitalis Justic' nostr' de eo adtunc & ibidem  
 consideraverit in hac parte Et heatis ibi tunc  
 hoc bꝛe Teste, &c.

*Habeas Corpus* before One of the Puisne  
 Judges immediately.

Cozam A. B. Miſ uñ Justic' nostroꝝum ad  
 placita in Cur' nostra cozam nobis tenendū as-  
 signū apud Cameram suam situat, (&c.) im-  
 mediate post receptiō hujus bꝛevis ad fac &  
 rec, &c. (as before)

*Habeas Corpus in Vacation' retorn'* at a Day  
 certain.

Habeatis cozam (&c.) die Lune quare  
 to die Aprilis circa horam tertiam post  
 merid' ejusdem diei———ad fac & rec,  
 &c. (ut supra).

An *Habeas Corpus* to remove a Person,  
 charged with Actions in the King's  
 Bench, from the Fleet to the King's  
 Bench.

Georgius, &c. Guardiano Prisione nostre  
 de le Fleet salutem Precipimus tibi qđ corpus  
 A. B. in Prisiona nostra sub custod' tua ut di-  
 citur detent' sub salvo & securo conductu una-  
 cum die & causa captionis & detentioñ sue  
 quoꝝ

K.'s Bench. quocunque nomine idem A. censeatur in eadē  
 habeas corā nobis apud Westm die \_\_\_\_\_  
 prop' post \_\_\_\_\_ ad respondend C. D. de plas  
 cito transgr acetiam bille ipsius C. versus  
 ipsum A. pzo 100 l. de debito secundum cons  
 Cur nostre corā nobis exhibend & ult ad fas  
 ciend & recipiend quod Curia nra corā nobis  
 de eo adiunc & ibid consideraverit in hac par  
 te Et habeas ibi tunc hoc breve Teste, &c.  
 (as before.)

Ret' in Cur'  
 B. R.

*Habeas Corpus ad testificand'.*

Georgius, &c. W. N. Ar Mar Marese  
 nre corā nobis existē saluē Precipimus  
 tibi quod corpus A. B. in Prisona nra sub  
 custod tua ut dicitur detent sub salvo & securo  
 conductu quocunqz nomine idem A. censeatur  
 in eadem heas corā dilecto & fideli nro R. R.  
 Mil Capital' Justic nro ad pl'ita in Curia  
 nra corā nobis tenend affligid apud Westm  
 in magna Aula placit ibid die \_\_\_\_\_ ad ho  
 ram octav' ante meridiem ejusd diei ibid ad  
 testificand veritat scienc sue in quadam causa  
 in Curia nra corā nobis jam pendeid & ad  
 tunc & ibidem triand inter C. D. Quer &  
 E. F. Def. in pl'ito conventioni tract & tunc  
 imēdiate post dict A. B. Testimoid suum cor'  
 pfat Capital' Justic adtunc & ibidem dederit  
 ad retozid ipsum A. B. ad eandem Prisonam  
 nram sub salvo & securo conduct Et heas ibi  
 tunc hoc breve T. &c.

*Habeas*



*Habeas Corpus ad prosequend'.*

Ad prosequend' billam suam versus C. D. in p'ito debiti p'out ill' in Cur' nostra coram nobis incepit ut ulterius in hac parte procedere valeamus p'out de Jure fore viderimus procedend' & heatis, &c.

*Ad respondend'.*

Ad respondend' A. B. de p'ito debiti (or de p'ito T'ng'r, &c. as the Case is) Ut ulterius, as last before.

*Ad satisfaciend'.*

Ad satisfaciend' A. B. de 20 l. p' Dampnis suis que sustinuit tam oc'ione cujusdam T'ng'r eidem A. p' p'fat' C. nuper illas quam p' mis' & cultag' suis, [&c.] as in Ca' Sa' sicut nobis constat de Recordo Ut ulterius, &c. (as above.)

*Habeas Corpus, where Languidus in Prisona was returned.*

**G**orgius, (&c.) saltem Precipimus tibi quod corpus C. D. per te capt' & in Prisona nostra sub custodia tua licet languidus decens sicut p' retorn' tuum [or retorn' R. F. nuper T'lic' Cond' p'dict'] in Curia nostra coram nobis mis' nobis liquet manifeste heas coram nobis die, (&c.) ad respond' [or ad satisfaciend'

M

K.'s Bench. tistfaciend, &c. as before ] A. B. de p'ito  
 Transgr' [or p'ito debiti, &c. mutatis mu-  
 tandis] Et habeas, (&c.) ut in ap.

*Habeas Corpus upon cepi Corpus.*

Precipimus tibi quod Corpus C. D. per  
 te capt & in Prisons nostra sub custodia tua  
 detent prout tu ipse p' retorn tuum in Curia  
 nostr' coram nobis als missu teipsum onerasti  
 habeas coram nobis apud Westm ———  
 die ——— (&c.) ad respond A. B. de p'ito  
 transgr' Et habeas, &c.


The like to the Sheriff of *Middlesex* upon  
 a *Cepi* returned.

Precept est Uic quod corp' C. D. per se  
 capt & in Prisons Domini Regis sub custod  
 tua detent prout tu ipse per retorn tuum in  
 Curia Domini Regis coram ipso Rege alias  
 mis' se oneravit habeat coram Domino  
 Rege apud Westm ——— die ——— (&c.)  
 Ad respondend A. B. de p'ito Transgr' Et  
 habeat ibi tunc hoc p'cept, &c.


To remove an Action out of an inferior  
 Court into the *King's Bench*; you must  
 know the Stile or Title of the inferior  
 Court; for which see in *Thesaurus Brevis*  
*um*. The most usual inferior Courts in or  
 about *London*, are the *Marshal's Court*, the  
 Directions whereof is *Judicibus Cur palat*  
*tii nostri Westm* & eorum cuilibet sactem  
 Precipimus vobis & cuilibet vestrum qd cor-  
 pus, &c. The Sheriffs Courts of *London*,  
 their

*Marshal's*  
*Court.*

*London.*

their Title is Mayor Alderman & the Lon. K.'s Bench.  
 don & eorum cuilibet saltem. The Court of   
 Stepney, the Direction is, Seneschallo *White-Chapel*,  
 Cur nostre de Recordo infra Maner de  
 Stepney & Hackney in Com Middx Ham-  
 blet & Libertat eorumdem necnon Capital  
 ballio ejusdem Libertat & eorum utriusque  
 salutem, &c. This Direction is double, for  
 that there is a Gaol for Defendants arrest-  
 ed in that Liberty by Writs out of superi-  
 or Courts, as well as by Process out of  
 the Court: The Court is commonly called  
*White-Chapel-Court*. When you have made  
 your Hab' Corpus ad faciend & recipiend,  
 then upon a Piece of Parchment cut like  
 a little Bail-piece, which is called the *Fiat*,  
 write thus for the *Marshal's Court*.

Cur Pall Fiat h'c de Hab<sup>A</sup> Fiat,  
 Corpus pro C. D. ad fac &  
 rec rec immediate.

Pleadwel }  
 Attorn } 

And then make a Ticket on Paper.

Cur Pall n. Hab Corpus pro  
 C. D. ad fac & rec rec im-  
 mediate.

Pleadwel.

And the same *Fiat* and Ticket for *London*,  
 only put *London* in the Margent; and for  
*Stepney*, Cur maner de *Stepney* in the  
 Margent.



K.'s Bench. Then carry your Hab' Corpus with the *Fiat* and Note to Mr. Hawley in the King's Bench Office, who will stamp the Hab' Corpus and return it to you, and keep the *Fiat* and Note: You must pay him 7 s. 8 d. in the Vacation, and 6 s. 8 d. in Term-Time. Note, The Parchment on which you write the Hab' Corpus, must be stamp'd with a 5 s. Stamp. Seal your Hab' Corpus as you do other Writs, and carry it to the inferior Court to be allowed.

You must observe, that formerly in those inferior Courts, if the Debt were small they enter'd the Action 4 l. 19 s. The Reason was, That an Action under 5 l. originally was not to be removed but tried there. But Industry had found out an Expedient for that, for if the Action was under 5 l. you brought another Action of 5 l. or above, at whose Suit you pleased against the same Defendant, and then the Habeas Corpus removed both Actions together at any Time before the Trial.

But this Method of removing Actions under 5 l. is now altered by the 12 Geo. cap. which recites that, *Whereas the Statute of 21 Jac. I. for the more effectual Preventing the Delays and Expence occasioned by the Removal of small Causes out of inferior Courts, hath been of late evaded and rendred ineffectual, by the Contrivance of vexatious Defendants, who by setting up a fictitious Action against themselves, for a pretended Demand of 5 l. or upwards, by such their Contrivance, procure the smallest Actions to be removed*

removed by Writs of Hab' Corp' out of the inferior K.'s Bench. into the superior Courts, whereby the Plaintiffs in such small Actions, which will not bear the Expence of such superior Courts, are necessitated to submit to the Loss of their just Demands; now for preventing such Abuses, and rendring the said Statute more effectual for the future, It is enacted, That from the 24th of June, 1726, the Judge of such inferior Courts, as are described in the said Statute, shall or may proceed in such Actions, Bills, Complaints, Suits or Causes, as are therein specified, which appear or are laid not to exceed the Sum of 5 l. altho' there may be other Actions against such Defendant or Defendants, wherein the Plaintiff or Plaintiffs Demands shall or may exceed the Sum of 5 l. This Act to continue in Force 5 Years, and to the End of the next Session of Parliament.

You pay 4s. 10d. for the Allowance of the Hab' Corpus and sometimes more when there are many Causes to be returned, for all the Causes the Defendant stands charged with above 5 l. must be returned with the Habeas Corpus. Some few Days after the Delivery, call for the Return, and carry it with your Bail to a Judge's Chamber, and there put in special Bail, for which you pay 7s. 4d. except it be against the Defendant as Executor or Administrator, for then no special Bail is required above. Also the Plaintiff's Attorney may serve the Defendant's Attorney with a Rule for a *Procedendo*, if Bail be not put in in Time; *Procedendo*, that is, in six Days after Service thereof in the Vacation, and Four in Term. Any of the Judges Clerks will give the Rule, and

K's Bench. if Bail be not put in in Time, the Plaintiff takes out a Summons to attend the Judge to shew Cause why a *Procedendo* should not be awarded, and if no Cause shewn on the 3d Summons they make out a *Procedendo*, and carry back the Cause, and try it in the inferior Court. See the Writ of *Procedendo* herein after.

Returnable  
immediately

Note, If your *Habeas Corpus* be directed to any of the said inferior Courts, or any other within Ten Miles of London, you make it returnable immediately; but if the Court be above Ten Miles distant, then the Return must be on a certain Day.

Note, If the Defendant be actually a Prisoner in some of the Prisons belonging to these inferior Courts, the Difficulty will be greater, for he cannot be discharged out of Prison till the Bail on the *Habeas Corpus* be accepted or justified in Court; and therefore in such a Case, the more ready and cheaper Way is to put in Bail to the Action in the inferior Court, which will discharge the Defendant, and then bring the *Habeas Corpus* to remove the Cause.

Committitur.

But if the Defendant cannot find Bail, and would be removed to the King's Bench Prison, you must deliver the *Habeas Corpus*, and they will make you a Return, and send an Officer with the Defendant to a Judge's Chamber, and a *Committitur* must be writ in Parchment, and the Judge's Tipstaff takes the Prisoner into his Custody, and charges him to the King's Bench Prison: You pay 11 s. 8 d. at the Judge's



Judge's Chamber; the Tipstaff will de-K.'s Bench. mand 10 s. for carrying the Defendant over, and you must agree with the Officer as cheap as you can for bringing him to the Judge's Chamber.

If the Defendant be in the Custody of a *Newgate*, Bailiff, or in *Newgate*, and would be turned over to the *King's Bench*, the Practice is the same; you deliver a *Habeas Corpus* directed to the Sheriff of *Middlesex*, and he will search his Office what Writs he hath against the Defendant, and make Return of them, and then the Officer or Keeper of *Newgate* will carry the Defendant to the Judge's Chamber, and he will be turned over before the Judge in Manner afore-said: You must take Notice with what Writs the Defendant is charged; for if it should be only with a *Common Pleas* Writ, then you cannot turn him over to the *King's Bench*, without charging him with an Action out of the *King's Bench*; so that you must make a Bill of *Middlesex*, or an Attachment of Privilege returnable in the *King's Bench*, and carry it to the Sheriff, and he will charge the Defendant in Custody, and return that Action with the other.

And the same Course is taken to remove a Prisoner from the *Fleet* to the *King's Bench*, only the Warden of the *Fleet* will often stand out two *Habeas Corpus's* at least, before he will part with his Prisoner, and will also insist on being paid his Prison-Fees, before he brings up the Prisoner; but a Judge on a Summons will oblige

K.'s Bench. the Warden to bring up the Prisoner with-  
out them.

*Note,* Before you deliver your Habeas Corpus, it is fit to speak to a Waiter, if the Defendant be in the *Fleet*, to carry him to the Judge's Chamber and agree with him, and also to provide a Tipstaff in Readiness; and many do go to the Marshal and treat with him for Chamber-Rent, and sometimes for the Defendant's Liberty, upon Security, before they carry him over.

*Procedendo.*

Before this Writ is sued forth, be sure to search all the Judges Chambers, and ask the Clerks if they have no Bails by them, that are not entered: You pay signing in Vac' 7s. 8d. Term 5s. 8d. Sealing 7d.

**C**orgius, (sc.) Majori Albris & Wic London salutem Licet vobis per breve nostrum nuper precepimus quod Corpus C.D. in Prisona nostra sub Custod v'ra ut dicebat detent sub salvo & secur' conduct unacum die & causa capti & detent' sue quocumq; nomine idem C. teneat in ead' haberetis coram dilecto & fidei nostro R. Raymond Mil' Capital' Justic' no'ro ad Plita in Curia nostra coram nobis tenend' assign' apud Cameram suam scituat in le Serjeants-Inn in Fleet-Street, London [or coram A. B. Mil' un' Justic' nostro ad Placita in Curia nostra coram nobis tenend' assign' apud Cameram suam scituat, (sc.)] immediate post recepti' istius brevis [or haberetis coram nobis apud Westm' die ———— &c. as the Return was in Hab' Corp'] ad faciend' & recipiend' ea omnia & singula que idem Justic' nostr' [or que Cur' nostr' coram nobis] de eo adiunc' & ibidem cons



ronſ in ea parte Tamen certis de cauſis nos K.'s Bench.  
ſam in Cur' n'ra coram nobis ſpecialit' mo-  
ven' vobis & cuilibet v'rum precipimus quod  
in quibuſcunque querelis ſive ſectis verſus ip-  
ſum C. ad ſectam A. B. in Cur' n'ra coram vo-  
bis ſeu aliquo v'rum lebat ſive affirmat vel  
coram vobis ſeu aliquo v'rum ſam pendeſſ  
indeterminat cum ea celeritate qua poteritis  
talit' procedatis qualit' ſecundum Legem &  
conſ' Regni noſtri Angl' [vel \* Civit' n're \* This Clauſe  
Lond' p'd] fore videritis pcedend' bzevi n'ro p'd is to be put  
vobis inde prius direct' in contrar' in aliquo in when it is  
non obſtand' Teſte, &c. (ut in al.) London.

*Procedendo Super Certiorari.*

**C**orgius, &c. ſaptem Cum vobis p bzebe  
n'rum nup certis de cauſis Certiorari  
voleſſ de quadam Billa Original, &c. [reci-  
ting the Certiorari in ſuch Manner as the  
Habeas Corpus is before recited] coram no-  
bis die——( &c.) unacum bzevi illo ut ul-  
tius inde fieri faceremus prout de Jure fore  
viderimus faciend' tamen certis de cauſis nos  
ſam in Curia n'ra coram nobis movend' vobis  
& cuilibet veſtrum precipimus quod tam in  
Querel' p'd verſ' pſat C. in Curia n'ra coram  
vobis ſeu aliquo veſtrum lebat ad ſectam p'd  
A. quam in Attachment ſuperinde fact' in  
manibus & cuſtod' E. R. cum ea celeritate qua  
poteritis talit' pcedatis qualit' ſecundum Le-  
gem & conſuetudinem civit' noſtr' p'd fore vi-  
deritis pcedend' (bzevi noſtro de Certiorari  
p'd vobis prius inde in contrar' direct' in ali-  
quo non obſtand') Teſte, &c.





*Procedend' super Bre' de Latitat.*

**G**orgius (rc.) Vic' London' saltem  
Cum Vic' nostro Widdr nuper p-  
cepimus quod caperet C. D. si invent' fuis-  
set in balliva sua & eum salvo custod' ita  
quod heret corpus ejus coram nobis apud  
Westm' Ad certum diem jam preterit' -- ad  
respondend' A. B. de placito Transgr'  
(or as the Cause of Action was in  
the Latitat) Dñsque Vic' nr' Widdr  
ad diem illi nōh reco'd' quod p'dict C. non  
fuit invent' in balliva sua sup' quo ex par-  
te p'dict A. in Cur' n'ra coram nobis suf-  
ficienter testatum fuerit quod p'dict C. La-  
tit & discur' in Civitat' n'c London' (or  
the County to which the Latitat was  
directed) Nobisq; supinde nup pcepimus  
quod caperetis eū si invent' fuisset in Balli-  
va vestra & eum salvo custod' ita quod ha-  
beretis corpus ejus coram nobis apud Westm'  
die \* ----- prox' post -----

\* As in the  
Latit'

ad respond' p'fat A. de p'lito p'dict Jamque  
in eadem curia n'ra coram nobis ex parte  
H. L. accepimus quod vos in quadam ques-  
rel int' ipsum H. & p'dict C. in Cur' n'ra  
coram vobis p'fat Vic' pendend' indetermin-  
nat' procedere occasione die' viz' n'ri distus-  
listis & adhuc differtis in ipsius H. grave  
dampnū Et nos in hac parte fieri volend'  
quod est iustum vobis p'cipimus quod in  
quibuscunque Querelis versus ipsum C. ad  
sectam

sectam p̄dict H. L. coram vobis seu aliquo K.'s Bench.  
 vestrum affirmat & coram vobis seu aliquo  
 vestrum jam penden̄ indeterminat' cum ea  
 celeritate qua poteritis talit' procedatis  
 qualit' secundū Legem & consuet' Civit'  
 n̄re London' fore videritis pcedendū (brevis  
 n̄ro p̄dict vobis prius inde nuper direct' in  
 aliquo non obstante) Teste, &c.

## Of Scire Facias.

*Scire facias in debito post annum & diem, to  
 revive a Judgment.*

**G** Corgius, &c. Vic' Midd' salutem Cum  
 A. B. Gen̄ nuper in Cur' nostr' co-  
 ram nobis apud Westm̄ p bill sine h̄ri  
 n̄ro ac p Judic' ejusdem Cur' recuperavit  
 vers' C. D. Gen̄ aī's dict' (&c.) ducent'  
 Libras de Deho necnon tres Libr' pro damp-  
 nis suis que sustinuit tam oc̄sione deten-  
 tionis debiti illius quam pro mis' & custodi-  
 suis p ipm̄ circa Sectam suam in ea par-  
 te appōit' unde idem C. D. convict' est s̄-  
 cut nobis constat de Recordo Jamque ex  
 parte p̄dict' A. in eadem Cur' n̄ra coram  
 nobis accepimus quod licet Judiciū inde  
 reddit' sit Executio tamen de debito &  
 dampnis p̄dict sibi adhuc restat faciendū  
 unde nobis supplicavit idem A. sibi de reme-  
 dio suo congruo in hac parte provideri Et  
 nos in hac parte fieri volentes quod est  
 Justum tibi p̄cipimus quod p probos &  
 legales homines de balliva tua Scire  
 fac'

You Sign and  
 Seal this  
 Writ, ma-  
 king out and  
 leaving a  
 Precipe at  
 the Office.  
 Signing 1 s.  
 8 d.  
 Sealing 7 d.

K.'s Bench. fac' \* p̄fat C. D. Quod sit coram nobis apud Westm die . . . . . prox' post . . . . .

\* If a Scire fac' against Tertenants, (then say as before usque) Tibi precipimus quod per probos & legales homines de balliva tua Scire fac' tenen' omnium terrar' & tenetor' que fuer' prad' C. die--prox' post—

Anno Regni nostri—quo die

Judic' p' d' reddit. fuit vel unquam postea in balliva tua quod sint coram nobis apud Westm die—prox post—ad ostend' (&c.) quare debitum & dampna p' d' de Terris & Tenement' ill. fieri & p̄fat. A reddi non debeant juxta vim formam & effect. recuperation' p' d' si (&c.) Et ulterius ad faciend' & recipiend' quod eadem Cur' nostra coram nobis de eis adtunc & ibidem cons. in hac parte. Et habeas, &c. (as in others.)

Ventris.

Sci' Fac' in Case on Assumpsit post Annum & diem.

Georgius (&c.) Vic' S. scitem Cum A. B. nuper in Cur' n'ra coram nobis apud Westm p' Willam sine h'ri n'ro ac p' Judiciu ejusdem Cur' recuperavit vers' C. D. 20 l. p' dampnis suis que sustinuit tam occasione non p̄formaōn quarundam promission' & assumpcion p' ip'm C. eidem A. nup fact' quam pro mis' & custag' suis p' ip'm circa sectam suam in ea parte apposit' unde, &c. (\* as before.)

Sci' Fac'

\* Inserting Dampn' Miss' & Custag' instead of Debito & Dampnis.



*Sci' Fac' in Transgress' sur Case.*

Georgius, &c. (as before usque) recuperabit versus C. D. 20 l. pro dampnis suis que sustinuit tam occasione cuiusdam Transgress' super Casum p ipsum C. eidem A. nuper illat quā p mis, (&c. as before.)

*Sci' Fac' in Transgress'.*

Georgius, (&c. ut antea usque) recuperabit versus C. D. 20 l. pro dampnis suis que sustinuit tam occasione cuiusdam Transgress' per eundem C. eidem A. nuper fact quam pro mis, &c.

This Writ of *Scire Facias* was given by the Statute of *Westm. 2. c. 45.* and before that Statute, if the Plaintiff had not taken out his Execution upon a Judgment against the Defendant, within a Year and Day, he had no Remedy, but a new Action of Debt on his Judgment; but now this *Scire Facias* may be sued out to revive it; but it must be directed into the County, where the Original Action was brought.

The Writ of *Scire Facias* after a Year and a Day may be had of Course against the Defendant without Motion, but if the Judgment be above Seven Years, and not above Ten Years old, you may have a Rule at the Side-Bar, for a *Scire Facias* to revive

**K's Bench.** revive it; but if it be above Ten Years Standing, the Plaintiff must move the Court to obtain a Rule for a *Scire Facias* before he can be able to make out such Writ, and in order to obtain such Rule, there must be an *Affidavit* of the Debts being unsatisfied, and the Judgment not vacated, and that the Defendant is living; and then the Court will grant you a Rule accordingly.

If the Plaintiff takes Execution within the Year, and it is not served, yet he may continue the same upon the Roll from Term to Term, till it is served, and need not sue out any *Scire Facias*.

If the Defendant appear to this Writ of *Scire Facias*, and can shew good Cause as a Release, Satisfaction or any other just Cause, he may plead it in Discharge.

If the Sheriff return *Scire Feci*, and the Defendant upon the Return of the said *Scire Feci*, do not forthwith appear, and plead after a Rule given with the Clerk of the Rules is out, the Plaintiff shall have present Execution.

*Vide post.* the Entry of the Judgment.

But if the Sheriff return a *Nihil habet* upon the *Scire Facias*, you must give him an *Alias Scire Facias*, and get it returned in the same Manner. And each *Scire Facias* must lay Four Days at least in the Office, before their respective Returns; and there must be Eight Days distant between the *Teste* and Return of each *Scire Facias*. The First must be returned before the Second  
is

is made out, and the Second tested the K.'s Bench.  
Day of the Return of the First.

If there are not Eight Days distant between the *Teste* and Return of each *Scire Facias*, the Court may quash them on a Motion, or the Defendant may demur thereunto. 1 *Lutw.* 25. *Salk.* 599.

When you have Two *Nibils* returned it amounts to a *Scire Feci*, and the Plaintiff may (after he hath given a Rule as before on the *Alias Scire Fac'*, which is of Four Days) enter up Judgment of Course, and sue out what Execution he pleaseth. *Vide post.* the Entry of such Judgment.

*Note,* If you do not proceed upon a *Scire Facias* within a Year and a Day after it was taken out, you cannot, after that, proceed upon that Writ, but must sue out a new *Scire Facias*; (for the old Writ is discontinued) and it must be directed into the County where the Original Action was brought.

Where either Plaintiff or Defendant, or one of the Plaintiffs, or one of the Defendants die, there cannot be any Execution sued out upon the Judgment, until a *Scire Facias* sued out by the Heirs, Executors or Administrators, and Judgment thereupon. *Style's Pract. Reg.* 499.

*Vide post.* *Scire Facias* against the Bail and the Entry thereof, with the Method of proceeding against them.

Entry



K.'s Bench.

Entry of two *Scire fac*⁹, with two *Nihil* returned, and Judgment by Default.

**D**ominus Rex mand' Wic London brebe suum ctm in hec verba ff. Georgius Dei Gra, &c. (reciting the Writ of *Scire Fac* verbatim and adding the *Teste*) Test' R. Raymond Mil apud Westm 12 die Junii anno Regni nostri duodecimo Ad quod diem the Return in the First Writ coram Domino Rege apud Westm veni pdict (quer) in propria persona sua Et Wic L. videlt A. B. Mil & C. D. Mil ad diem ult ult menconat retori quod pdict (Def.) Nichil habuit in Ballia sua ubi aut per qd ei Scire Fac potuer nec est invent in eadem Et pdict (Def.) non venit Jo sicut als precept est Wic London quod p ppos, (&c.) Scire Fac pfa (Def.) quod sit coram dict Domino Rege apud Westm die Mercur pr' post tres Sept Sancti Mich (Return of the Alias Scire Facias) ad ostend in forma pdict ff, &c. Et ulterius, &c. Idem dies ult menconat dat est pfa (quer) ibide, &c. Ad quem diem ult menconat coram dict Domino Rege apud Westm pdict veni p (quer) in ppria persona sua Et pdict Wic London ut prius retori quod pdict (Def.) nihil habuit in Ballia sua ubi aut per quod ei Scire Facere potuer nec est invent in ead Et pdict (Def.) ad eund diem ult menconat solempnit exact non venit sed default fec Jo cons est qd p H. heat Execucio versus p the Defendant de debito & dampnis p supra vim formam & effectum Recuper' p, &c.

Execucio

**D**ominus Rex mand, &c. (as before to the End of the Return of the second Scire fac', viz.) Et p<sup>o</sup>dict Wic M. p<sup>o</sup>dict ut prius Retor<sup>o</sup> quod p<sup>o</sup>dict B. Nichil habet in Balliva sua ubi aut per quod Scire facere potuit nec est invent<sup>o</sup> in eadem Et p<sup>o</sup>dict B. ad eund<sup>o</sup> diem ult<sup>o</sup> menconat<sup>o</sup> solemn<sup>o</sup> exa<sup>o</sup> p<sup>o</sup> J. S. Act<sup>o</sup> suum similiter ven<sup>o</sup> Et super hoc p<sup>o</sup>dict E. ut prius p<sup>o</sup> Executo<sup>o</sup> versus p<sup>o</sup>sa<sup>o</sup>

K.'s Bench. sat B. de debit' & dampn' p'dict' sibi adsubleas-  
 ri, &c. Et p'dict' B. dic' quod p'dict' E. Cres-  
 cutionem suam versus eum de debito & dampn'  
 p'dict' habere non debet Quia dicit quod  
 non h'et' aliquod t'le Record' Recuperation'  
 debi & dampnorum p'dict' qual' per b're-  
 ve p'dict' superius supponitur Et hoc parat'  
 est verificare Unde p'et' Judic' si p'dict' E.  
 Executionem suam versus eum de debito &  
 dampn' p'o h'ere debeat, &c.

Et p'dict' E. dic' quod ipse per aliqua  
 per p'dict' B. superius placitando allegat'  
 ab Execuc' sua versus eum de debito &  
 dampn' p'dict' habens p'cludi non debet Quia  
 dic' quod h'et' t'le Recordum Recuperation' de-  
 biti & dampn' p'dict' quale per Breve p'o  
 superius supponit' put' patet Termino . .  
 . . . Anno Regni Domini Georgii nunc  
 Regis M'agne Britannie Rotlo . . . . .  
 Et hoc parat' est verificare per Record' illud  
 Et p'et' quod Termin' & Rotul' ille per Cur'  
 Domini Regis hic videant' & inspiciant' Et  
 quia Cur' dicti Domini Regis nunc hic de  
 Judicio suo de & super p'mis' reddens nondum  
 advisat' Dies inde dat' est partibus p'dict'  
 coram Domino Rege apud Westm' usque  
 diem . . . . . p' post . . . . . de Judicio  
 suo de Crit' ille audiens Co quod Cur' dicti  
 Domini Regis hic inde nondum, &c.

*Note, The Master is to sign Judgment  
 upon the Rolls.*



*Sci' Fac' versus Executor' super Judic' recuperat' in vita Testatoris.*

Georgius, (tc.) Vic. S. salutem Cum  
 A. B. nuper in Cur' n'ra (tc. as before) sic  
 cut nobis constat de Recordo posteaque scilicet  
 \_\_\_\_\_ Anno, (tc. \_\_\_\_\_) p'dict'  
 C. apud D. in Com' tuo condidit testamentum  
 & ult' voluntat' sua in scriptis & constituit  
 E. F. Executorem Testi sui p'dict' posteaque  
 ibidem obiit post ejus mortem p'dict' E. F.  
 onus Execucon' Testi sui p'dict' super se  
 suscepit ac Testum illud debita Juris forma  
 probavit ac jam ex parte p'dict' A. in Cur'  
 n'ra coram nobis accepimus quod licet Jus  
 dic' inde reddit' sit Execuco tamen de debito &  
 dampn' p'dict' sibi adhuc restat faciend' Unde  
 nobis supplicabit idem A. sibi de remedio suo  
 in hac parte p'videri Et nos in hac parte fieri  
 volend' quod est iustum tibi p'ecipimus quod p'  
 p'bos, (tc.) Scd' Fac' p'fat' E. F. quod sit  
 coram nobis die, (tc.) ad ostend' si quid pro  
 se habeat vel dicere sciat quare p'dict' A.  
 Execucon' suam de bonis & catallis que fuer'  
 p'dict' C. D. tempore mortis sue in manibus  
 suis administrand' habere non debeat juxta  
 vim form' & effectum Recuperacon' p'dict' si sibi,  
 (tc.) Et ulterius ad factur', (tc.) Et habeas,  
 (tc. ut in al'.)

K.'s Bench.

*Scire Fac' versus Adm' sur Judic' recuperat' versus Intestat'.*

Georgius, (&c. as before usque) sicut nobis constat de Recordo posteaque scilicet die— (&c.) predict' C. apud D. in Com' tuo obiit intestat' post cuius mortem Administrat' omnium & singulorum bonorum catallorum suorum & creditorum que fuer' predict' C. tempore mortis sue p——— cui commissio Administrat' predict' in hac parte de Jure p——— tinuit cuidam C. C. Vid——— die \* Anno Regni nostri——— apud——— predict' deb' juris forma commiss' fuit Ac jam ex parte, (&c. as last before to the End)

\* There is no need to mention the Day or Year.

*Note, If the Judgment was had against Executor or Administrator, then the Judgment must be entred thus:*

——— de bonis & catallis que fuer' predict' Testat' (vel Intest') in manibus predict' Executor' (vel Administrat') administrand' si tantum in manibus suis habeat & si tantum in manibus suis non habeat tunc dampna predict' de bonis & catallis ipsius (Executor' vel Administrator') propriis administrand', (&c.)

Scire

*Scire Facias* against the Bail.

Next we shall shew the Method of proceeding against the Bail by *Scire Facias*, with the Forms and Entries thereof.

Where Bail are put in to an Action brought in this Court, the *Scire Facias* against them must be always sued out into *Middlesex*, because all Bails to Actions are supposed to be taken in Court which is in *Middlesex*.

But in Case of a Recognisance entered into by Bail upon a Writ of Error, if it be entered to be taken at a Judge's Chamber in *London*, then the *Scire Fac'* must be there sued out. *Style's Reg.* 499.

There must also be Eight Days inclusive between the *Teste* and Return of each *Scire Facias* against the Bail, and not one of them Four or Five Days, and the other Twelve——And each *Scire Facias* must lay Four Days at least in the Sheriff's Office, before their respective Returns; or you need have but one *Scire Facias*, if a *Scire Feci* be returned thereupon by the Sheriff.

But first, Before a *Scire Facias* issues to the Bail, there must be a *Cap' ad satisfac'* directed into the County where the Action is laid against the principal Defendant, and a *Non est inventus* returned upon it.



K.'s Bench. Also there must be Eight Days exclusive between the *Teste* and Return of such *Capias ad satisfaciend'* to warrant a *Scire Facias* against Bail, and the *Capias* must lay in the Sheriff's Office Four Days exclusive, before the Return be out. *Salk.* 559.

After the Return of it by *Non est inventus*, and filed, you make out the *Scire Facias*, as is hereafter set forth, and the Entry thereupon.

*Note*, That if the Defendant does not render himself before or upon the Day of the Return of the *Scire Facias* with a *Scire Feci*, or before or upon the Return-Day of the Second *Scire Facias* he can never do it after; and you give a Rule of Course with the Clerk of the Rules after the Return of the *Sci' Feci*, or the 2d *Sci' Fa'*; and if the Defendant do not plead, before the Rule is out, you may have a *Fi' Fa'* or an *Eleg'* against the Bail, and enter the Judgment on the Roll, as *vide post*. But it is said, that to entitle your self to a *Ca' sa'* against the Bail, you must first sue out a *Fieri facias*, and get a *Nulla bona* returned thereupon.

If the Defendant is surrendered in Time, as aforesaid, you must enter such Surrender in the Marshal's Book, with Mr. *Lanzrow*, the Clerk of the *Docketts*, and give the Plaintiff's Attorney Notice of such Surrender in Writing.——Then take the Bail-Piece from the Judge's Chamber, if it was not before filed; and afterwards apply to the Clerk of the Papers of the King's Bench Prison for a Certificate of the Defendant's Surrender, and then carry

ry the Bail-Piece with the Certificate to K.'s Bench. the Master of the King's Bench Office, and he will mark an *Exoneretur* on the Bail Piece, and then deliver it to Mr. Hawley, Signer of the *Latitats*, and he will file it, and so the Bail are entirely discharged.

*Note*, If the Defendant dies before the Return of the *Scire Feci*, or of the Second *Scire Facias*, the Bail are discharged by his Death, and upon a Motion, the Court will grant a Rule accordingly.

You must enter the First *Scire Facias* on the Roll, of that Term when the First *Scire Facias* is returnable; and so award your other *Scire Fac'* on the same Roll and continue the Proceedings and Pleadings, if any, till Judgment be enter'd, all on the same Roll———And if the Plaintiff please, he may levy Part of the Debt upon the Defendant's Goods first, and after resort back to the Bail for the Residue: But if he take the Defendant's Body in Execution, he cannot meddle with the Bail at all.

*Sci' Fac' versus Manucapt' in Debito.*

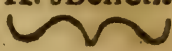
Georgius, (ꝛc.) Vic M. saltem Cum A. B. nuper in Cur' nostra coram nobis apud Westm' per Willam sine brevi n'ro, (ꝛc. as in Debt usque) sicut nobis constat de Record' Jamque ex parte p'dict' A. B. in Curia nostra coram nobis accepimus licet Judicium inde reddit' sit Execu'ō tamen de debito & dampn' p'dict' sibi adhuc restat faciend' Cumque E. F.



K.'s Bench. de, (sc.) Gen & G. H. de eod Ann als  
 scilicet \* Term Sancti Michis Anno Regni  
 \* The Term nostri quarto in ead Curia nostra coram nobis  
 the Bail apud Westm psonalit ven & deven pleg &  
 was put in, Manucapt & uterque eorum per se deven  
 take Care pleg & Manucapt p pdict' C. D. quod si  
 that the conting pdict' C. D. in plico pdict' convinci  
 Names and tunc ibidem Manucapt concesser & uterque eo-  
 Additions of rum p se concessit tam debitum pd quod omnia  
 the Bail are humoi dampna mis & custag que pfa A. B.  
 exactly the in ea parte adjudicarent' de terris & catallis  
 same in the suis ppris & eorum utriusq fieri & ad opus &  
 Writ as are ulum ipsius A. B. levati si contingeret pdict  
 on the Bail C. D. debitum & dampna mis & custag ille  
 Piece taken pfa A. B. mied solvere aut se Prisoner Mar  
 before the Judge. Marele nostre coram nobis ea occone non  
 Quare, If the reddere pdict tamen C. D. debitum & damp  
 Bail was ta- mis & custag pdict pfa A. B. nondum sol-  
 ken after the vit nec seipsum Prisoner Mar Marele nostre  
 Continu- coram nobis reddidit secundum formam & ef-  
 ance-Day, if fectum Recogni pde put ex insinuatione pre-  
 it is not Bail dict' A. B. in Curia nostra coram nobis acce-  
 of the suc- pimur Unde nobis supplicabit idem A. B. si  
 ceeding bi de remedio congruo in hac parte pvideri  
 Term, and if Et nos in hac parte fieri volen quod est ju-  
 it must not stum tibi precipimus quod p ppos & legales  
 be so menti hoies de ballia tua Sci fac pfa E. F. &  
 oned in the G. H. quod sint coram nobis apud Westm  
 Sci' Fac'. die ——— pr' post ——— Ad ostend si  
 One Sci' Fa' quid p se habeant vel dicere sciant quare pre-  
 with Notice dict A. B. Execucio suam versus eos de de-  
 sufficient, bito & dampn pdict habere non debeat  
 juxta vim form & effectum Recogni pd si sibi  
 viderit expediri Et ulterius facit & recept  
 ea omnia & singula que eadem Curia nra  
 coram nobis de eis adtunc & ibidem con-

sideraverit



consideraverit in hac parte Et heas ibi tunc no. K.'s Bench.  
 mina eorum p quos eis Scd fec Et hoc v2d   
 Teste, (tc.)

*Scire Fac' in Case against the Bail.*

Georgius, (tc.) Cum A. B. nuper in  
 Cur' n'ra (ut supra) recuperavit versus C. D.  
 centum libz' p dampn' suis que sustinuit tam  
 occasione non pforzmacoñ quarundm pmissioñ  
 & assumptioñ eis A. p pfañ C. nup fact' qua  
 p mis' & custag' suis p ipsum circa sextam sus  
 am, (tc. as in Debt usque) constat de Recoꝝ  
 do Ac licet, (tc.) Cumque, (tc. as before)  
 to the End, only instead of debum damp  
 num mis' & custag', you only say, dampn'  
 mis' & custag'.

Before you make out *Scire Fac'* against  
 the Bail, see that the Declaration be  
 entred upon the Rolls at *Westminster*  
 of the same Term the Declaration  
 was of; and after the Declaration is  
 entred *verbatim*, you must enter up  
 the Recognizance against the Bail  
 thus in Case, (*viz.*)

Et pdict (Def.) p———Attoꝝnatum  
 suum veni & defend vim & injur' quando,  
 tc. & sup hoc coram Domino Rege apud  
 Westm' veni the Bail, with their Additions,  
 in pꝑriis psonis suis & debener' pleg' & ma  
 nucaꝑt & uterque eorum p se debener' pleg' &  
 manucaꝑt p pdict' Def. quod si conting' eun  
 dem Def. in pꝑito pdict' convinci tunc iidem  
 manucaꝑt

**K.**'s Bench. manucapf concesser' & uterque eorum p se concessit omnia hujusmodi dampna mix & custag' que pfať Quer' in hac parte adjudicantur de terris & catallis suis & eorum utris usque fieri & ad opus pdict Quer' levari si conting' eundem Def. dampna mix & custag' ill' pfať Quer' miſ solbere aut se Prisonere Mareſc Domini Regis coram ipſo Rege ea orſione non reddere.

Some enter this Recognizance with an Imparlance, which ought to be but in some special Cases; for Bail may be given after an Issue joined, and after the Recognizance is entered up.

The Entry of Two Sci' Fa' against Bail  
*per Defalt' in Case.*

**D**ominus Rex mand Vic Mids breve suum clausum in hec verba; N. Georgius, (r.) (reciting the Writ of Sci' Fac verbatim, and adding the Teste) Teste R. R. Mil apud Westm 12 die Junii anno Regni nostri duodecimo ad quem diem Martis the Return in the Scire Facias coram Domino Rege apud Westm veni pō (Quer.) in ppria psona sua & Vic Comd Mids pdict videt A. B. Mil & C. D. Mil ad diem ill' ult menconat retorn quod pdict (the Bail) nihil habuer nec eorum alť aliquid habuit in bailia sua ubi aut p quod eis seu eorum alteri Sci' Fac potuit Et quod pō (the Bail) non fuer nec alť eorum fuit invent in eadem & pō (the Bail) non veni nec alť eorum veni Jo sicut

sicut alis pceptum est Wic Comd Mido quod K.'s Bench.  
 p ppos & legales homines de balliva tua Sed  
 Fac pstat the Bail quod sint coram Domino  
 Rege apud Westm die Veneris the Return  
 in the Second Sed Fac ad ostendend in form  
 pō si, &c. Et ulterius, &c. idem dies ult  
 menconat dat est pstat Quer ibm, &c. ad  
 quem diem ult menconat coram dicto Domi-  
 no Rege apud Westm pō ven pō Quer in  
 ppria plona sua Et pō Wic Comd Mido pōict'  
 ut prius retord quod pzed (the Bail) nihil  
 habuer nec eorum alter aliquid habuit in  
 balliva sua ubi aut p quod eis seu eorum  
 alteri Sed Fac potuit Et quod pō the Bail  
 non fuer nec alter eorum fuit invent in  
 eadem Et pzed (the Bail) non vener nec  
 alter eorum venit sed default fec ——— Id  
 Cong est quod pōict Quer habeat Executio *Executio*  
 fōid suam versus (the Bail) & utrumque *adjud.*  
 eorum de dampnis mis & custag' pō juxta  
 vim formam & effectum recogn pōict per *Default.*  
 ipsozum the Bail default.

See Pleas for the Bail to the Scire Facias  
 at the End of the Errors.

Of superseding Actions, and the Forms  
 of the Superfedeas's.

**B**R Rule of Court made Trin. 2 Georgii  
 Regis, it is ordered, That if any Defen-  
 dant shall be committed to the Custody of the  
 Marshal of this Court, or shall be charged in  
 Custody of the said Marshal; or shall be arrest-  
 ed and committed (by Virtue of the Process of  
 this



*K.'s Bench. this Court) to the Custody of any Sheriff or other Officer whatsoever, at the Suit of any Plaintiff; and shall so remain in Custody two Terms, and the Plaintiff shall not declare against such Defendant in that Time; then such Defendant after the End of the Second Term, after such Imprisonment, shall be discharged out of the Prison, in which he was so detained, upon filing Common Bail to be signed by one of the Judges of this Court without giving Notice to the Plaintiff or his Attorney— And if any Plaintiff shall declare against such Defendant, a Prisoner in Custody of the Marshal of this Court, or any Sheriff or other Officer, and shall not proceed to Trial or Judgment within Three Terms next after such Declaration delivered; or if any Plaintiff shall obtain Judgment in this Court in any Action against such Defendant remaining in Prison, and shall not charge him in Execution upon Judgment so obtained within two Terms next after such Judgment so had and obtained, then such Defendant so remaining in Prison may file Bail or prosecute a Writ of Superfedeas out of this Court for his Discharge out of Custody, to be allowed by one of the Judges of this Court, if the Plaintiff or his Attorney on Notice to one of them given, by the Defendant's Attorney (and Affidavit made of such Notice) shall not appear before the said Justice and shew Cause against filing Bail or obtaining such Writ of Superfedeas.*

To be entitled to the Writ of *Supersedeas* you must get a Certificate from the Sheriff in whose Custody the Defendant is, that there is no Declaration delivered against him in his Custody, or *Habeas Corpus* brought; and then get a Certificate from the Clerk of the Declarations at the King's Bench Office, that no Declaration is filed: Afterwards make out a common Bail-Piece with this Addition, *Quia Quer' non narravit infra duos Terminos fiat breve de Supersedeas*, which the Judge signs, and is the Authority for the Signing the Writ; And at the same Time you sign the Writ, you file the Certificates; then seal and carry the Writ to the Sheriff, who thereupon will make out a Discharge for the Defendant to the Keeper of the Prison.

If the Defendant be in Custody of the Marshal of the King's Bench Prison, and no Declaration delivered within Two Terms. you get a Certificate thereof from the Clerk of the Papers of the King's Bench Prison, and from the Clerk of the Declarations, and thereupon a Judge will order common Bail to be filed; and upon a Certificate thereof, the Marshal will discharge the Defendant without a *Supersedeas*.

If a Declaration hath been delivered against a Defendant in Custody of any Sheriff or other Officer, and no further Proceedings had according to the Rule; then upon taking out, and serving on the Plaintiff's Attorney a Summons from a Judge

**K.'s Bench Judge** to shew Cause why a Writ of *Superfedeas* should not be granted to discharge the Defendant out of Custody, for Want of Prosecution; the Judge will, if Cause be not shewn to the Contrary, order such Writ accordingly, on filing Common Bail.

But if a Defendant be in Custody of the Marshal, and no Prosecution as before; then on a Summons and Service thereof, and no Cause being shewn to the Contrary; the Judge will order the Defendant to be discharged on filing Common Bail without any Writ of *Superfedeas*.

### *Superfedeas* for not declaring in Two Terms.

A *Superfedeas* is a Writ to command or request the Parties to whom it is directed, to stay or forbear the Doing of that which in Appearance of Law might be done, were it not for the Cause whereupon the Writ is granted.

**C**orgius, (tc.) Wic S. salutem Cum tibi p breve nostrum nup pcepimus quod capes A. B. si invent forer in balliva tua Et eum salvo custod ita quod haberes Corpus ejus coram nobis apud Westm die ——— pr' post ——— ult pterit ad respondend F. G. Gen de p'ito transgr acetiam Wille ipsius F. versus ipsum A. p centum & viginti Libris de de'bo secundum Cons Cur nostre coram nobis exhibend & quia idem F. non narrabit versus ipsum A. infra duos Termis nos p quod idem A. in eadem Curia nostra coram nobis venit & imposuit commune ballivum ad sectam p'dict F. in p'ito p'dict Ideo tibi precipimus quod de ulterius capiend p'reb A. attachiand & imprisonand seu ipsum ea occasione aliqualit molestand ad sectam p'reb F.



in lecta predict omnino Supsedeas & si ipsum K.'s Bench.  
ea occasione & non alia cepisti & in priso-  
na detineas tunc ipsum A. e priso-  
na qua sic de-  
tinetur sine dilacione deliberari facias piculo  
incumben' Teste R. R. Mil apud Westm,  
&c.

*Supersedeas* upon the Defendant's Filing  
Common Bail by Order of a Judge.

**G**eorgius, (&c.) Ric' Widd salutem Cui  
tibi nup pcept fuit quod capes Mar-  
tham N. si invent fuerit in balliva tua ita  
quod haberes Corpus esus coram nobis apud  
Westm die——pr' post——ad res-  
pond J. K. de plito transgr ac etiam bill  
ipsius J. K. vers' ipsu M. N. p 100 l. sup as-  
sumptionem secundum cons' Cur' nostre coram  
nobis exhibend Et quia eadam Martha venit  
in Curia nostra coram nobis & imposuit com-  
mune Ballium ad lectam prefat J. in plito  
& bille predict Ideo tibi precipimus quod de  
capiend predict Martham attachiand impri-  
sonand seu ipsam ea occasione aliququaliter mo-  
lestand omnino Supsedeas & si ipsam Mar-  
tham ea occasione & non alia cepisti & in Pri-  
sona detineas tunc ipsam Martham e Pri-  
sona qua sic detinetur sine dilacione deliberari  
fac piculo incumbente Teste R. R. Mil apud  
Westm, &c.

If a privileged Person, as an Attor-  
ney, &c. is sued in any Jurisdiction Fo-  
reign to his Privilege, he may have a *Supersedeas*.

*Super-*

K.'s Bench.

*Superfedeas pro uno Clerico capital' Clerici.*

**G**orgius, (et.) Hajozi Aldermannis & Vic' nostris London' salutem Cum tam ex dignitate nostra Regia quam ex Consuetudine antiqua secundum eandem retroact' temporibus usitat' & approbat' hucusque fuerit obtent' quod omnes & singuli capital' Clerici nostri ad placita in Curia nostra coram nobis irrotuland' assigni & eorum Clerici p' tempore existend' alibi quam in Curia nostra coram nobis ad respondend' coram aliquibus Iudicibus secular' sup' aliquibus placitis seu querel' (placitis de libero tenentur except' ) trahi seu compelli non debeant nec a toto tempore supradict' consuever' Jamq; ex Parte R. G. Gen' un' Clericorum R. H. Mil' capital' Clerici nostri ad placita in Curia nostra coram nobis irrotuland' accepimus Quod dignitat' & consuetud' p'dict' non obstant' quidam malevoli dignitat' & consuetud' p'dict' parvi pendend' p'dict' R. G. in Curia nostra coram vobis p'ter tu diverg' Querel' coram vobis versus eund' R. lebat' traxer' in p'fictum In dignitat' nostre & cons' p'dict' lesionem & enervationem manifest' ac ejusdem R. dispendium non modicum & grabamen Quod si p'mittitur aliis imposterum cederet in exemplum p'niciosid' Nobis igitur p'cipimus firmit' injungen' qd' de ulterius p'cedend' coram vobis seu aliquo vestrum in Querel' p'dict' seu aliqua earund' Superfedeas & quilibet vestrum Superfed' omnino dicentes partibus in eisdem Querelis coram

coram vobis in forma p̄dict p̄sequendū quod ad K.'s Bench.  
Curiam nostram coram nobis accedant Iustici-  
tiam ibm in ea parte consecut si sibi viderit  
expedire Teste, (tc.)

*Superfedeas sur Habeas Corpus post Procedendo.*

Georgius, (tc.) Masozi Aldermannis &  
Wic Londoni salutem Licet vobis p̄ breve  
nostrum nup p̄cepimus quod corpus A. B.  
in p̄sona nostra sub custodi vestra ut di-  
citur detent sub salvo & secur conduct una-  
cum die & causa captionis & detentionis sue  
quocunque nomine idem A. censeretur in  
eadem haberetis coram dilect' & fidel' nostro  
C. D. Wic und Iustic' nostrorum ad placita  
in Curia nostra coram nobis tenend' als  
sign apud hospitium suū in Serjeant's Inn  
in Fleet-Street, London, immediate post  
receptiōē h̄is ill' ad faciend' & recipiend'  
ea omnia & singula que idem Iustic' nost'  
de eo adtunc & ibidem cons' in ea parte  
Licetque certis de causis nos in Cur' n'ra  
coram nobis specialit' moveid vobis & cui-  
libet vestram nup p̄cepimus quod in quis-  
buscunque Quere' versus ipsum A. ad lect'  
E. F. in Cur' nostra coram vobis seu alio  
quo vestrum leuat sive affirmat sam pen-  
den' indeterminat cum ea celeritate qua  
poteritis talit' p̄cederetis qualit' secundum  
legem & cons' regni nostri Angl' & Cis-  
sib' nostre Londoni fore videritis Procedend'  
(b) n'ro p̄dict de habend' corpus vobis prius  
inde in contrar' direct in aliquo non ob-  
stans) Et quia p̄dict breve de Procedendo im-



K.'s Bench. *pro*vide emanabit Et quia idem A. in Curia nostra coram nobis invenit sufficiens Mandatum ad respondendum predictum E. F. in querela predicta Non vobis precipimus quod de omni ulterioři persecucone in querela predicta virtute huius predicta de Procedendo omnino supersed' sub piculo incumbendi Teste, (&c.)

*\* Quare.* Note, If the Defendant appear by *Superfedeas* [as he may without Bail \*, tho' the Action be 500*l.*] then he enters an Appearance with the Philazer, and you declare against him as by Original, A. B. nup de C. in Com predicta, attach, &c. and the Defendant's Attorney pays the Plaintiff's Attorney 4*d.* per Sheet, and 4*d.* for every Sheet of the Issue; and all the Writs and Executions are returnable ubicunque, &c.

*Superfedeas pro Def. capt' per nuper Vic' quia imposuit Ballium.*

**G**orgius, (&c.) Vic' N. salutem cum nup Vic' Com' tui p breve nostrum nup precipimus quod capet A. B. si invenit foret in ballia sua & eum salvo custodiret ita quod haberet corpus ejus coram nobis apud Westmon die ——— pr' post ——— anno regni nostri decimo tertio ad respondendum C. D. de pposito transgress' acetiam vice ipsius C. versus ipsum A. p duodecim Libris de debito secundum consuetudinem Cur' nostre coram nobis exhibendum Et idem A. virtute brevis nostri predicta captus fuit & in prisona nostra sub custodia

custodia tua adhuc detent existit Quia tamen K.'s Bench-  
 poia' A. in Curia nostra coram nobis im-  
 suit ballium secundum consuetudinem Curie  
 nostre poite ad respondend pstat C. de plito  
 & billa poia' tibi pcepimus quod si poia' A.  
 ea occasione & non alia in ptilona nostra sub  
 custod tua detineat tunc ipsum A. e ptilona  
 illa qua sic detinet sine dilatione deliberari  
 fac & ad largum ire pmittas picto incumbend  
 Teste R. R. (tc.)


Ventris.

## Of Declarations.

**A**LL Actions personal, where no Pos- Actions trans-  
 session is awarded, are transitory, fitory.  
 and not local, as *Debt, Detinue, Annuity,*  
*Account, Case, &c.* and may be commen-  
 ced, and the Declaration laid in such  
 County, as the Plaintiff pleases; but the  
 Court, on Motion, before the Rules to  
 plead are out, will alter the Venue, Affi-  
 davit being made that the Cause of Action  
 arose in another County.

But all real and mixt Actions, as *Eject-*  
*ment, Trespass quare clausum fregit, Waste,* Local Acti-  
 &c. are local, and are to be laid in the ons.  
 County where the Cause of Action arose,  
 or where the Lands lie.

In all Actions upon the Case, Tres-  
 pass, Assault, Battery, &c. you are not  
 obliged to lay the certain Day in your  
 Declaration, but you may lay it at any  
 Time after the Cause of Action accrewed,  
 O 2 and

K.'s Bench. and before the Effoin-Day of that Term  
 the Declaration is of.

But if the Cause of Action arose in that Term you declare of, as it may sometimes happen on a promissory Note, &c. then you confine your Declaration to a certain Day, subsequent to the Cause of Action, by Writing on the Top of your Declaration *Die Lunæ prox' post Quinden' Sancti Martini in Termino Sancti Michaelis Anno decimo tertio Georgii Regis.*

Upon a *Mutuat* for a Judgment by Warrant of Attorney.

*Mich' Anno decimo tertio Georgii Regis.*

S. R. **A.** B. queritur de C. D. in custod' ei 100 l. legalis Monete Magni Britann quas ei debet & injuste detinet p' eo viz. Quod cum p'dict' C. D. 10 die M. Anno Regni Domini Georgii nunc Regis Magnæ Britann, &c. duodecimo apud E. in Com' p'dict' Mutuat fuisse de p'sat A. p'dict' 100 l. solvend' eidem A. cum inde requisit' esset p'dict' tamen C. licet sepius requisit', &c. p'dict' 100 l. p'sat A. nondum solvit sed ill' ei hucusque solvere om'io contradixit & adhuc contradic' unde p'dict' A. dicit quod ipse deteriorat' est & damp' habet ad valenc' 20 l. Et inde p'duc' seq', &c.

*Non informat  
per F. G.*

E. p' Quer' } Pleg, &c.  
 G. p' Def. }



You write this Declaration on Paper stamp with a double Half Crown Stamp.

Make an *Incipitur* on the Roll and the Clerk of the Dockets will enter and mark the Declaration and Roll, then the Master will sign your Judgment, and allow you 63 s. Costs; but before you sign your Judgment, you must file a common Bail Piece for the Defendant.

*Note*, This Judgment must be entred as others, by Way of *Memorandum* on the Roll, which is usually of the same Term; as, *Memorandum quod die Mercur' pr' post quinden' Pasch isto eodem Termino coram Domino Rege, (Ec.)*

Then you proceed to make your *Fi' Fa'* or such Writ as is requisite.

### A Declaration upon a Bond.

*Mich' decimo tertio Georgii Regis.*

*Quid, n.* **A.** B. queritur de C. D. Als <sup>†</sup> *Note, The*  
<sup>†</sup> *Alias dict'*  
 dict' C. D. de Paroch S<sup>c</sup>i Clementis Dacorum in Com<sup>o</sup> Midd<sup>o</sup> Gen<sup>o</sup> ought to be  
 in custod<sup>a</sup> \* Mar<sup>o</sup>, &c. de p<sup>o</sup>lito quod reddat ei *literatim*, as in  
 centum libras ligalis Monete Regni Britan<sup>ie</sup> the Bond, as  
 quas ei debet & injuste detinet p<sup>o</sup> eo vide<sup>re</sup> near as may  
 Quod cum p<sup>o</sup>dict' C. primo die Junii Anno be resembled  
 Regni Domini Georgii nunc Regis Regne by the Court-  
 Britannie, &c. duodecimo apud p<sup>o</sup>dict' Pa<sup>o</sup> \* Or in Cu-  
 roch S<sup>c</sup>i Clementis Dacorum in Com<sup>o</sup> p<sup>o</sup>dict' *flod' Vic' Com*  
 O 3 per S. &c.

K.'s Bench. per quoddam Scriptum suum obligator' n-  
 gillo ipsius C. sigillat' Curque dict' Domi-  
 ni Regis nunc hic ostens' cujus dat est eisdem  
 die & anno cogn' se teneri & firmiter obli-  
 gari p'stat A. † in p'dict' centum libris sol-  
 vend' eidem A. cum inde requisit' esset p'dict'  
 tamen C. licet sepius requisit', &c. p'dict'  
 centum libras p'stat A. nondum solvit sed  
 ill' ei hucusque solvere omnino contradixit  
 & adhuc contradicit unde p'dict' A. dicit qd  
 ipse deterioratus est & dampnum habet ad  
 Valenc' viginti librarum Et inde p'ducit  
 sectam, &c.

† If you de-  
 clare on a  
 Sheriff's  
 Bond not af-  
 signed then  
 say cogn' se  
 teneri, (&c.)  
 A. B. adtunc  
 Vic' Com' p'æ-  
 dict' existen'  
 per nomen A. B.

Arm' Vic' Com'  
 M. p'ædict'  
 but if the  
 Bond be af-

Pleadwell p Quer' } Pleg, &c.  
 Cunningham p Def. }

signed according to the late Act, you declare as Assignee of  
 the Sheriff in Manner following.

A Declaration upon the Assignment of  
 the Sheriff's Bail-Bond to the Plaintiff  
 according to the Statute 4 & 5 Annae,  
 for Amendment of the Law.

Lond, ff. A. B. Gen' Assign' C. D. Mit  
 nuper Vic' D. secundum  
 formam Statut in hujusmodi casu nup edit'  
 & p'bis' queritur de E. F. ap's dict', (&c.) in-  
 cussis War', &c. de placito quod reddat ei  
 100 l. lib' legalis monete Magn' Britan'  
 quas ei debet & injuste detinet p' eo videt'  
 quod cum p'dict' A. post p'imum diem Ter-  
 mini Sancte Trinitatis Anno Domini 1706.  
 scilicet 20 die J. Anno Domini 1726, p'ecut'  
 fuisset

fuiſſet extra Cur' dia' Domini Regis coram K's Bench.  
 ipſo Rege (eadem Cur' adtunc apud Weſtm in Com' Midd' exiſtend) verſ' pſat E. quodſ  
 dam brebe dia' Domini Regis vocat' a Lariſ  
 tat tunc Wic' Com' D. p'dict' direct' p quod  
 quidem brebe idem Dominus Rex eidem  
 tunc Wic' Com' D. p'dia' pcepit quod capet  
 p'dict' E. ſi inveni forzet in Wallia ſua & eid  
 ſalvo cuſtod' ita quod haberet corpus eſus co  
 ram dia' Domino Rege apud Weſtm die \*\* The Re-  
 . . . . . pr' poſt . . . . . tunc pr' ſequen turn of the  
 ad reſpond' p'dia' A. B. de pſito trans' acetia Latitat.  
 Will' ipſius A. verſ' ipſum E. p 50 l. de  
 debito ſecundum conſ' Cur' ipſius Domini  
 Regis coram ipſo Rege exhibend' qd quidm  
 brebe poſtea & ante reſozm ejuſdem ſcilicet  
 (tali die) Anno Domini 1726. ſupradia' des  
 liberaſ fuit pſat C. D. Ar' adtunc Wic' Com'  
 D. p'dia' apud G. in Com' D. p'dia' in forma  
 ſur' erequend' virtute cuſus quidem brebis id'  
 C. D. adtunc Wic' Com' D. p'dia' ut pſ  
 fertur exiſtens pſat E. per Corpus ſuum ce  
 pit & arreſtavit ac ipſum E. in cuſtod' ſua  
 adtunc & ibidem occaſione p'dia' habuit &  
 detinuit Ac ab eodem E. ſic arreſtat' & ſub  
 cuſtod' ſua adtunc exiſtend' poſtea ſcilicet eodem  
 (tali + die) anno 1726. ſupradia' ibidem ce  
 pit Wallium p comparenc' ipſius E. juxta te  
 nozem brebis ill' Et ſupinde p'dia' E. ſimul  
 cum quibuſdam H. J. de K. in Com' D.  
 Yeoman, L. M. de K. p'dia' Yeoman,  
 N. O. de P. in Com' D. p'dia' Yeoman,  
 poſtea ſcilicet eodem (tali die) Anno Domini  
 1726. ſupradia' apud Lond' p'dia' videt' in  
 Paroch' Beate Marie de Arcubus in Warda  
 de Cheape p quoddam ſcriptum ſuum Oblis  
 O 4 gatorium

† The Date  
 of the Bail-  
 Bond.



K.'s Bench. gatorium sigill' ipsozum E. H. L. & N. sigillat' Cur'q' dict' Domini Regis nunc hic ostens' cusus dat' est eisdem die & anno ult' supradict' deven' & quilibet eorum E. F. L. & N. p' se p' toto & in solid' deven' ten' & obligat' p'fat' C. D. ad tunc Vic' Com' D. p'dict' existend' p' nomen C. D. Ar' Vic' Com' D. p'dict' in p's 100 l. solvend' eidem Vic' aut Assign' suis cum inde requisit' esset, cum Conditione eisdem scripto Oblig' subscript' quod si p'dict' E. compareret coram dict' Domino Rege apud Westm' die Mercurii pr' post quinden' Sancti Martini tunc prox' sequend' ad respons' p'dict' A. B. Gen' de placito transgress' acetiam Bill' ipsius A. versus ipsum E. pro 50 l. de debito secund' cons' Cur' dict' Domini Regis coram ipso Rege exhibend' Quod tunc Oblig' ill' vacua foret & nullius Effect' alioquin remaneret in suis plen' vigore & virtute, prout p' scriptum ill' & condition' ill' plenius liquet. Idemque A. ulterius dic' quod p'dict' E. non comperuit coram Domino Rege apud Westmonasterium p'dict' p'dict' die Mercurii prox' post quinden' Sancti Martini supradict' secund' exigent' brevis p'dict' & form' & effectum condition' ill' p' quod scriptum Oblig' p'dict' eidem Vic' forisfact' deven' Idemque Vic' postea scilicet (tali die) anno 1726. supradict' apud L. p'dict' videt' in Paroch' Beate Marie de Arcubus in Warda de Cheap p'dict' ad requisicon' & custag' ipsius A. p' quoddam Indorsament' in scriptis gerend' dat' eisdem die & anno ult' supradict' sup' scriptum ill' fact' & indorsat' & sub manu & sigill' ipsius C. D. in p'sentia duorum credibilium

As it is in  
the Condition  
of the  
Bail-Bond.

The Date  
of the Assign-  
ment.

ium testium videlicet (the Names of the K.'s Bench, Witnesses) adiunct & ibidem attestat secundum formam & effectum Statuti predicti assignabit eidem A. predicti scriptum Obligatorium per comparere predicti E. ut perfertur capitulo secundum formam Statuti predicti in huiusmodi casu nuper editi & per vis' quod quidem Indorsamentum ipse eidem A. hic in Curia perfert cuius dat' est eisdem die & anno ult' supradictis Rone quorum quidam promissorum iuxta formam Statuti nup' editi & per vis' actio accrebit eidem A. ut Assigni prefat' C. D. adiunct Wic' Com' D. predicti ut perfertur existens ad exigendum & habendum de prefat' E. predicti 100 l. predictus tamen E. licet sepius requisitus, &c. predicti 100 l. prefat' C. aut eidem A. seu eorum alteri nondum solvit sed ille eis hucusque solvere omnino contradixit & ille eidem A. solvere adhuc contradixit ad dampnum ipsius A. 20 l. Et inde producat sectam, &c.

} Pleg', &c.

*Vide Narr' on a Bail-Bond, 2 Inst. Cler.*  
348.

If against any of the Sureties of E. F. then thus:

London, ff. **A.** B. Assigni C. D. Ar' nuper formam Statuti in huiusmodi casu nup' editi & per vis' queritur de J. S. alibi dicti, &c. in curia nostra, &c. (as before to the Taking of Bail:)

K.'s Bench. Bail:) Et supinde pōict J. S. simulcum pō  
 E. F. & quibusdam, (et.) postea scit, be-  
 came bound for the Appearance of E. F.  
 as is in the other; and so sets forth, that  
 the Principal did not appear, and that the  
 Bond became forfeited and assigned, et.  
 Per quod actio accrebit to the Plaintiff  
 against the Defendant, et. as in the  
 other.

### Declaration upon a Bill Penal.

London, ff. **A.** B. queritur de C. D. Alias  
 dict, (et.) in Custod Mar,  
 et. de p̄lito quod reddat ei 20 l. legalis  
 Monete hujus Regni quas ei debet & injuste  
 detinet pro eo videlicet quod cum pōict C.  
 (such a Day in such a Year) apud Pas-  
 roth Beate Marie de Arcubus in Warda de  
 Cheap p̄ quandam Willam suam Obligato-  
 riam sigillo ipsius C. sigillat Curque dia'  
 Domini Regis nunc hic ostens' ejus dat est  
 eidem die & anno cogn' se debere p̄fat A.  
 10 l. solvend' eidem A. in & sup̄ primum  
 diem Maii tunc prox' sequen' post dat  
 ejusdem Wille Et ad eand' solucionem be-  
 ne & fidelit' faciend' idem C. obligavit se He-  
 redes Executor' & Administrat suos in p̄dict'  
 20 l. firmit' p̄ eand' Willam Et pōict A. in  
 facto dicit quod p̄dict' C. non solvit eidem A.  
 p̄dict' 10 l. in & sup̄ p̄dict' primum diem  
 Maii quas ei in & sup̄ eundem diem solvisse  
 debuit secundum formam & effectum Wille  
 p̄dict' p̄ quod Actio accrebit eidem A. ad  
 exigend' & habend' de p̄fat C. p̄dict' 20 l.  
 p̄dict'



¶dict tamen C. licet sepius requisit, &c. K.'s Bench.  
 ¶dict 20 l. ¶fat A. nondum solvit sed ill ei  
 hucusque solvere omnino contradixit & ad-  
 huc contradic' Ad dampn' ipsius A. 20 l. Et  
 inde pduc' sextam, (&c.)

If it be upon a Bill without Penalty,  
 then say (as last before usque) apud Paroch,  
 (&c.) p quendam Willam suam Obligatoria  
 sigillo ipsius C. sigillat' Cur'que dict' Domi-  
 ni Regis nunc hic ostens' cusus dat est eisdem  
 die & anno cogn' se debere ¶fat A. ¶dict 20 l.  
 solvend' eidem A. Executoribus Administrato-  
 ribus vel Assign' suis Ad vel sup' primum  
 diem Maii tunc sequen' dat Will' Obligato-  
 rie ¶dict Et ad eandem soluc'on' bene & ve-  
 racit' fore faciend' ¶dict C. obligavit se He-  
 res Executor' & Administrat' suos firmit' p  
 eand' Willam ¶dict tamen C. licet sepius  
 requisit, (&c. as before to the End.)

If you bring your Action against Two  
 or more for one Debt, due on the same  
 Specialty, you must observe whether the  
 Specialty be joint or several. If joint,  
 then your Declaration must be, that they  
 render jointly to the Plaintiff so much  
 Money, &c.

But if the Specialty be as is most usual,  
 jointly and severally, as *Obligamus nos He-  
 redes Execut' Administratores nostros & utrumq;  
 nostrum*, then you must deliver so many  
 several Declarations, as there are Defen-  
 dants in your Writ; otherwise it is plead-  
 able in Abatement.

A Decla-

K.'s Bench.

## A Declaration by a Clerk of the Office.

Pro Clerico  
Offic'.

Midd, ff. **A.** B. Gen' und Clericorum  
E. U. Armiger Capital Cleric' Domini Regis ad placita in  
Curia ipsius Domini Regis coram ipso Re-  
ge irrotuland assign'd iuxta libertat' & privi-  
leg' pro huiusmodi Capital Cleric' & ejus  
Clicis a tempore cuius contraxit memoria ho-  
minum non existit usitat' & approbat' in eade  
plein hic in Cur' in ppria psona sua queritur  
de C. D. in Custos Mar', &c. pro eo videt  
quod cum, &c.

Case.

Debt.

Or, — in custos Mar', &c. de p'to  
quod reddat ei 10 l. quas ei debet & injuste  
detinet, (&c. as the Case is.)

## Against an Attorney of the Court.

Midd, ff. **A.** B. queritur de C. D. Gen'  
und Attoz Cur' Domini  
Regis coram ipso Rege plein hic in Cur' in  
ppria psona sua p eo videt quod cum, &c.  
These may serve pro & con' mutatis mutan-  
dis, and conclude with Pleg' de proseq'  
Johes Doe & Ricus Roe, at Length. Vide  
the Statute for that Purpose.

Case.

Narr'

Narr' for Goods sold and delivered.

Mich. 13 Georgii Regis.

Widd, ff. **A.** B. queritur de C. D. in cuius  
 nobis Mar, &c. p eo vi-  
 bett quod cum pō C. decimo \* die Octobris \* You may  
 Anno Domini Millesimo septingentimo vice- lay it at any  
 simo sexto apud Paroch Sancti Clementis Time after  
 Dacox in Com Widd indebitat fuisset eidem the Cause of  
 A. in septendecim Libz' legalis Monete Action, and  
 Magis Britan p divers' bonū mercimonū & Effoin-Day  
 merchandiz' ipsius A. p ipsum A. eidem C. of the Term  
 & ad ejus special instant & requisitōm ante the Declara-  
 tempus ill' vendit' & deliberat Et sic inde in- tion is of.  
 debitat existēd pōia' C. postea scilicet eidem Indebitatus  
 die & anno supradict' apud Paroch pōia' in Assumpsit for  
 Com pōia' in cons inde sup se assumpsit & Goods sold  
 eidem A. adtunc & ibidem fidelit' pmissit quod and deliver-  
 ipse pō C. pō septendecim lib eis A. cum in- ed.  
 de postea requisit' esset bene & fidelit' solvere  
 & contentare vellet Cumque etiam pstat C.  
 postea scilicet eidem die & anno supradict' apud  
 Paroch pō in Com pōia' in cons quod pō  
 A. ad sitēs special instant & requisitōm ipsius Quantum va-  
 C. vendidisset & deliberasset eidem C. divers' lebant for o-  
 al' bonū mercimonū & merchandiz' ipsius A. ther Goods  
 sup se assumpsit & eidem A. adtunc & ibidem sold.  
 fidelit' pmissit quod ipse pō C. omnes tant  
 denar' sum quant bonū mercimonū & merchan-  
 diz' ill' ult' menconat tempore venditōm &  
 deliberatōm eorundem rationabiliter valebant  
 eidem A. cum inde postea requisit' esset bene  
 & fidelit' solvere & contentare vellet Et pō A.



K.'s Bench. in fact' die quod bonū mercimoniū & merchandiz' ill' ult' menconat' tempore vendicōn' & deliberacōn' eorundem rationabiliter valebant a l' sum' septendecim libz' siliis legalis Monet Magn' Britan' videlt' apud Paroch' pōict' in Com' pō' & inde pō' C. postea scit' eisdem die & anno supradict' apud Paroch' pō' in Com' pōict' notie habuit Cumque etiam pōict' C. postea scit' eisdem die & anno supradict' apud Paroch' pō' in Com' pō' infimul computasset cum pō' A. de & concernēd' divers' denar' sum' eidem A. p' ipsum C. ante tempus ill' debet' & insoluit' Et sup' Compo ill' idem C. adtunc & ibidem invent' fuit in Arrerag' erga eundē A. in al' sum' septendecim libz' siliis legalis Monet Magn' Britan' Et sic inde in arrerag' invent' existēd' pō' C. in cons' inde postea scit' eisdem die & anno suprad' apud Paroch' pō' in Com' pō' sup' se assumpsit & eidem A. adtunc & ibidem fidelit' pmissit quod ipse pō' C. pō' septendecim libz' ult' menconat' eidem A. cum inde postea requisit' esset bene & fidelit' solvere & contentare vellet P'ed' tamē C. separat' p'micōn' & assumpcōn' suas pō' in forma pō' fact' mīe curand' sed machinand' & fraudulent' intenden' eundē A. in hac parte callide & subdole decipere & defraudare pō' separat' denar' sum' seu aliquēd' inde denar' eidem A. nondum solvit nec ei p' eisdem aliqualit' contentabit licet ad hoc faciend' pō' C. postea scit' eisdem die & anno suprad' apud Paroch' pō' in Com' pō' & sepius postea p' eund' A. requisit' fuisset sed ill' ei hucusque solvere seu p' eisdem aliqualit' contentare omnino recusabit & adhuc recusat unde idem A. dic' qd' ipse deteriorat' est Et dampnū habet

*Infimul computasset for Monies due.*

Breach.

habet ad valenc septendecim libz' Et inde K.'s Bench.  
 producit sectam, &c.

p Quer' } Pleg', &c.  
 p Def. }

Narr' for Money laid out, Money lent,  
 and Money had and received.

Hill' Anno 13 Georgii Regis.

Midd, ff. **A.** B. queritur de C. D. in cus  
 stod Mar', &c. p eo videEt  
 qd cum pzed C. decimo die Januarii Anno  
 Domini Millesimo septingentimo vicesimo *Indebitatus*  
 sexto apud Paroch Sancti Clementis Dacor' *assumpsit for*  
 in Comd Midd Indebitat fuisse eidem A. in *Money laid*  
 decem libris legalis monete Magne Britan *out and ex-*  
 pro tant' denar sum p ipsum A. p eodem C. *pended.*  
 & ad ejus special instant & requisicon ante  
 tempus ill erogat extraposit expens & solut  
 Et sic inde indebitat existend p C. in cons  
 inde postea scit eidem die & anno suprad  
 apud Paroch p in Comd p sup se assumpsit  
 & eidem A. adtunc & ibidem fidelie pmisit  
 & ipse p A. p decem libz' eidem A. cum  
 inde postea requisit esset bene & fidelie solvere  
 & contentare vellet Cumque etiam poid' C.  
 postea scilicet eidem die & anno suprad apud  
 Paroch p in Comd p indebitat fuisse eide  
 A. in al decem libz' sifis legalis monete  
 Magid Britan eid C. p pfat A. ad ejus *The like for*  
 special instant & requisicon ante tempus ill *Money lent.*  
 mutuo dat & accommodat & sic inde indebitat  
 existend pzed C. in cons inde postea scit  
 eis

K.'s Bench. *eisd* die & anno suprad<sup>9</sup> apud Paroch<sup>9</sup> p<sup>9</sup> in Com<sup>9</sup> p<sup>9</sup> sup se assumpsit & eidem A. adtunc & ibidem fidelit<sup>9</sup> p<sup>9</sup>misit quod ipse idem C. p<sup>9</sup> dict<sup>9</sup> decem lib<sup>9</sup> ult<sup>9</sup> men<sup>9</sup>conat eidem A. cum inde postea requisit<sup>9</sup> esset bene & fidelit<sup>9</sup> & solvere & contentare vellet Cumq<sup>9</sup> etiam p<sup>9</sup>dict<sup>9</sup> C. postea scilt<sup>9</sup> eisdem die & anno suprad<sup>9</sup> apud Paroch<sup>9</sup> p<sup>9</sup>dict<sup>9</sup> in Com<sup>9</sup> p<sup>9</sup>dict<sup>9</sup> indebitat<sup>9</sup> fuisset eidem A. in al<sup>9</sup> decem lib<sup>9</sup> silis legalis mon<sup>9</sup> p<sup>9</sup> consili denar<sup>9</sup> sum<sup>9</sup> ipsius A. p<sup>9</sup> p<sup>9</sup>dict<sup>9</sup> C. pro eodem A. & pro usu ipsius A. ante tempus ill<sup>9</sup> habit<sup>9</sup> & recept<sup>9</sup> & sic inde indebitat<sup>9</sup> existend<sup>9</sup> p<sup>9</sup>dictus C. in consideratione inde postea scilicet eisdem die & anno suprad<sup>9</sup> apud Paroch<sup>9</sup> p<sup>9</sup> in Com<sup>9</sup> p<sup>9</sup> sup se assumpsit & eidem A. adtunc & ibidem fidelit<sup>9</sup> p<sup>9</sup>misit qd ipse p<sup>9</sup>dict<sup>9</sup> C. p<sup>9</sup>dict<sup>9</sup> sum<sup>9</sup> decem lib<sup>9</sup> ult<sup>9</sup> men<sup>9</sup>conat eio A. cu<sup>9</sup> inde postea requisit<sup>9</sup> esset bene & fidelit<sup>9</sup> solvere & contentare vellet p<sup>9</sup> tamen, as before.

The like for Money had and received for the Use of the Plaintiff.

{ 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 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2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102,



in viginti & quinque libz' legalis Monete K.'s Bench.  
 Magd' Britan' tam p' diversis operibus & *Indebitatus*  
 laboribus ipsius A. p' ipsum A. p' eodem C. *assumpsit for*  
 & ad special' instant' & requisit' ipsius C. *Work done*  
 ante tempus ill' fact' & p'format' quam p' di- *and Materi-*  
 versis material' & rebus necessar' ipsius A. p' *als found*  
 ipsum A. p' p' C. & ad ejus lites special' in- *and provided*  
 stant' & requisit' ante tempus ill' in &  
 circa opa & labor' p' p' invent' p'bis' & usitat'  
 Et sic inde indebitat' existend' p' C. in cons'  
 inde postea scilicet eisdem die & anno suprad'  
 apud Paroch' p' in Com' p' sup' se assumpsit  
 & eidem A. adunc & ibidem fideliter promi-  
 sit quod ipse p' C. p' viginti & quinque  
 libz' eidem A. cum inde postea requisit' esset be-  
 ne & fidelit' solvere & contentare vellet Cum  
 que etiam p' C. postea scilicet eisdem die & an-  
 no supradict' apud Paroch' p' in Com' p' in  
 operatione q'd p' A. ad lites special' in-  
 stant' & requisit' ipsius C. ante tempus ill'  
 fecisset & p'formasset p' eodem C. divers' al'  
 Opera & labores & invenisset providisset & u- *Quantum me-*  
 sus fuisset p' eodem C. divers' al' material' *ruit for other*  
 & res necessar' in & circa opa & labores il' *Work done,*  
 ult' menconat' sup' se assumpsit & eidem A. *and other*  
 adunc & ibid' fidelit' p'misit quod ipse p' C. *Materials.*  
 oies tant' denar' sum' quant' ipse p' A. p' o-  
 pib' & laborib' il' ult' menconat' sicut p'fertur  
 fact' & p'format' ac p' material' & reb' neces-  
 sar' il' ult' menconat' sicut p'fertur in & cir-  
 ca opera & labor' ill' ult' menconat' invent'  
 p'bis' & usitat' rationabiliter here meritis  
 fuisset eidem A. cum inde postea requisit' es-  
 set bene & fidelit' solvere & contentare vellet &  
 p' A. in facto die quod ipse p' A. p' opib'  
 & laboribus ill' ult' menconat' sicut p'fer-  
 tur

K.'s Bench. tur' fact' & p'format' & p' material' & rebus nec-  
 cessariis in & circa opa & labores il' ult' men-  
 tionat' sic ut p'fert' invent' p'vis' & usitat' ra-  
 tionabiliter habere meruit de eodem C. al-  
 sum' vigint' & quinque libz' s'itis legalis mo-  
 nete Magn' Britan' videlicet apud Paroch p'd  
 in Com' p'd unde p'd C. postea scilicet eisdem  
 die & anno supradict' apud Paroch p'd in Com'  
 p'd notit' habuit \* P'edictus tamen, as be-  
 fore.

\* It is usual  
 to add an'  
*Insimul com-  
 putasset.*

— p' Quer' } Pleg', &c.  
 — p' Def. }

*Quantum me-  
 ruit, for the  
 Cure of a  
 Wound.*

Sonis, ff.

**A.** B. queritur de C. D. in cur-  
 stod' Mar', &c. pro eo videlicet  
 quod cum p'd A. (such a Year and Day)  
 apud E. in Com' p'dict' ad special' instanc'  
 & requisit' ipsius C. ipsum C. de quo-  
 dam vulnere in Capite suo tunc existend' cu-  
 raret sup' se assumpsit & eidem A. adtunc &  
 ibidem fidelit' p'misit quod ipse idem C. tant'  
 denar' sum' quant' p'd A. pro hujusmodi cura  
 vulneris p'd rationabiliter mereretur eidem A.  
 cum inde postea requisit' esset bene & fidelit'  
 solbere & contentare vellet Et p'd A. in facto  
 dicit quod ipse p'omission' & assumpcion' p-  
 dict' C. in forma p'dict' fact' fidem adhi-  
 bens postea scit'——(such a Day and  
 Year) apud E. p'd in Com' S. p'd curavit p'd  
 C. de vulnere p'dict' Et pro Cura il' ratio-  
 nabiliter meruit quinque libras legalis mo-  
 nete Magn' Britan' & inde adtunc & ibidem  
 dedit eidem C. notitiam.

Avermont.

After



After this you may add by *Cumq; etiam*  
*Indebitatus assumpsit pro Medicamentis,*  
*&c.* thus,

*Cumq; etiam p<sup>o</sup> C. postea scilicet eodem* *Indebitat<sup>o</sup> as-*  
(the Day and Year) *ult<sup>o</sup> suprad<sup>o</sup> apud E.* *sumpsit.*  
*p<sup>re</sup>dict<sup>o</sup> in Com<sup>o</sup> p<sup>re</sup>dict<sup>o</sup> indebitat<sup>o</sup> fuisset eidem A.*  
*in al<sup>o</sup> quinque libris pro diversis Medicas-*  
*mentis Emplastris Unguentis ac al<sup>o</sup> Mercis*  
*monis eidem C. p<sup>o</sup> p<sup>re</sup>dict<sup>o</sup> A. ante tunc vendit<sup>o</sup>*  
*& deliberat<sup>o</sup> p<sup>re</sup>dicto<sup>o</sup> C. inde indebitat<sup>o</sup> ex-*  
*istend<sup>o</sup> ipse p<sup>re</sup>dict<sup>o</sup> C. in considerat<sup>o</sup> inde pos-*  
*tea scilicet eisdem die & anno ult<sup>o</sup> supradict<sup>o</sup>*  
*sup se assumpat Et eidem A. adtunc & ibidem,*  
*&c.* (as in the Declaration next before.)

And so you may lay a *Quantum va-*  
*lerent.*  
pro diversis Medicament, &c. sold and deli-  
vered . . . . .  
sup se assumpsit & eidem A. adtunc & ibidem  
fideliter promissit ipse idem C. tant<sup>o</sup> denar<sup>o</sup>  
summas quant<sup>o</sup> Medicament<sup>o</sup> Emplastra Uns-  
guenta & al<sup>o</sup> Mercimon<sup>o</sup> p<sup>re</sup>dict<sup>o</sup> tempore ven-  
ditio<sup>o</sup> & deliberation<sup>o</sup> eorum quam rationas-  
biliter valerent eidem A. cum inde postea re-  
quisit<sup>o</sup> esset bene & fideliter solvere & contem-  
tare vellet Et idem A. in facto dic<sup>o</sup> quod *Averment<sup>o</sup>*  
*Medicament<sup>o</sup> Emplastra Unguent<sup>o</sup> & al<sup>o</sup> Mercis-*  
*mon<sup>o</sup> p<sup>re</sup>dict<sup>o</sup> tempore venditio<sup>o</sup> & deliberation<sup>o</sup>*  
*eozundem rationabiliter valebant al<sup>o</sup> quinque*  
*libras legalis monete Regn<sup>o</sup> Britan<sup>o</sup> videlicet*  
*apud E. p<sup>re</sup>dict<sup>o</sup> in Com<sup>o</sup> p<sup>re</sup>dict<sup>o</sup> unde idem C. postea*  
*scilicet p<sup>re</sup>dict<sup>o</sup> eisdem die anno & loco habuit*  
*notitiam* (you may also inforce this by *Pro al<sup>o</sup> Medi-*  
*laying cament<sup>o</sup>.*



K.'s Bench. laying it over again thus) Cumque etiam  
 p̄res A. postea scilicet die, (et.) apud, (et.)  
 ad special' instant & requisitō ip̄sius C.  
 vendidisset & deliberasset p̄resat C. divers' al'  
 Medicament, et. (as before) usque notitiam

Yet it is usu- habuit (but this seems rather to be to en-  
 al to add an- large the Declaration than for Necessity)  
 Insimul com- p̄res tamen C. separal' promission & assump-  
 putasset. tion suas p̄res mie curans sed machinans,  
 et. as before.

Here also may be joined a *Mutuatus* for  
 other Money, if need be.

Narr' on a promissory Note payable on  
 Demand.

*Mich. 13 Georgii Regis.*

Midō, ff. **A.** B. queritur de C. D. in cu-  
 stōd Mar, et. pro eo videt' e  
 quod cum p̄s C. post primum diem Maii an-  
 no Domini Millimo septingentimo quinto  
 scilicet \* vicesimo primo die Decembris anno  
 Domini Millimo septingentimo vicesimo  
 quarto apud paroch' Sancti Clementis Daco-  
 rum in Corn' Midō fec' quandam Notam suā  
 in scriptis cōit vocat' a promissory Note  
 manu sua propz' adinde subscript' gerend' dat'  
 eisdem die & anno ult' supradict' quam quide'  
 Notam p̄res C. p̄resat A. abtunc & ibid' deli-  
 avit & p̄ eand' Notam promisit solvere p̄res-  
 fat A. p̄ nomen m̄i A. vel suo ordin' sup des-  
 mand' suū trigint' & octo libz' pro valore res-  
 cept' ratione quorum quib' p̄remissozū nec-  
 non vigoze Stat in hujusmodi casu inde edit'  
 & pro-

\* The Date  
 of the Note.

& probis' idem C. onerabil' deveni ad solvend K.'s Bench.  
 eidem A. vel ordini suo pꝛeſ trigint & octo libꝝ sup demand secundum tenorem Note  
 pꝛeſ Et pꝛ A. sic inde onerabil' existiẽ in  
 consideratione inde postea scilicet eidem die  
 & anno ult supradict apud Paroch pꝛ in Com \* It is usual  
 pꝛ sup se assumpsit & eidem A. adtunc & ibid to add an In-  
 fideliter pmissit quod ipse pꝛ C. pꝛ trigint & debitatus as-  
 octo libꝝ sup demand eidem A. bene & fideli- sumpsit for  
 ter solvere & contentare vellet Et pꝛ A. in Money had  
 facto die quod ipse ad aliquod tempus post and receiv'd.  
 confectiõ Note illius hucusque nullum fec And an  
 ordiẽ de vel concernẽ soluõẽ denar sum Indebitatus as-  
 pꝛ in Nota pꝛ content vel de aut concernẽ sumpsit for  
 soluõẽ alicujus partis inde \* Predictus tas Money laid  
 men, as before. out. —And  
 an Inſimul  
 computasset.

Pleg, &c.

*Vide* several Declarations on promissory  
 Notes in the Second Volume of *Instructor*  
*Clericalis* last printed.

The Intent of laying these Declara-  
 tions so many different Ways with a  
*Cumque etiam*, is, that upon the Trial the  
 Plaintiff may rely on that Count which  
 his Witnesses are best able to prove; for if  
 any one of the Counts, laid in the Decla-  
 ration, be proved, it is sufficient for him  
 to recover *pro tanto*.

And one may join several Causes or  
 Wrongs in one Action or *Narr'*, so they be  
 of one Nature and against one Person, so  
 one Action of the Case for divers Promi-  
 ses; but Debt, and Trespass, and Wrongs  
 P 3 can-

K.'s Bench. cannot be joined together in one Action, though against one and the same Person.

Upon the *Indebitatus assumpsit* for Goods sold and delivered, it is requisite the Plaintiff should prove more than one particular Thing sold, and also to prove a Price agreed upon, otherwise the Action will not lie. But on a *Quantum meruit*, you need only prove the Delivery of the Goods, and their Value at the Time of the Delivery; therefore in an Action for Goods sold, or Work done, it is most secure to lay a *Quantum meruit* with an *Indebitatus assumpsit*; but if only one particular Commodity is sold, you must mention that Commodity particularly in the Declaration, and not say, Goods sold. Upon an *Insimul computassent*, you must lay in your Declaration the very Day of the Account, and the very Sum agreed upon by both Parties to be due, otherwise the Plaintiff will be nonsuited.

## Trover.

Trover.

Som̃s, ff. **A.** B. quer' de C. D. in custod  
 p̃d A. decimo die Maii anno Reg̃ Dom̃ Geor-  
 gii nunc Regis Mag̃ Britañ, &c. duodecimo  
 apud L. in Com̃ p̃dict possess. fuit de bonis  
 & catallis sequeñ vide't de uñ lecto pulvis-  
 nat̃ (Anglice Feather-Bed) [naming the  
 Goods] ad valenc̃ 40 l. ut de bonis & catallis  
 suis suis p̃p̃ Et sic inde possessionat̃ existend̃  
 idem A. postea scit̃ eisdem die & anno supra-  
 dict̃



dict' apud L. p'dict in Comd p'dict' bona & ca. K.'s Bench.  
 talla ill' extra manus & possession' suas casu-  
 alit' p'didit & amisit que quidem bona & catal-  
 la sic amisit' postea scilicet eisdem die & anno  
 supradict' apud L. p'dict' in Comd p'dict' ad  
 manus & possession' p'dict' C. p' inventon'  
 debener' p'dict' tamen C. sciens bona & catal-  
 la p'dict' fore bona & catalla ipsius A. propz'  
 & ad ipsum A. de iure spectare & p'tinere ma-  
 chinans tamen & fraudulent' intenden' eundem  
 A. in hac parte callide & subdole decipe & de-  
 fraudare bona & catalla p'dict' licet sepius requi-  
 sit, &c. eidem A. nondum delibavit sed bona  
 & catalla p'dict' postea scilicet 16 die Maii  
 anno duodecimo supradicto apud L. p'dict in  
 Comd p'dict in usum suum propz' convertit  
 & disposuit Unde idem A. dicit quod ipse de-  
 teriorat est Et dampn' habet ad valenc' sexa-  
 ginta libz' Et inde producit sextam, &c.

Though you  
 cannot prove  
 an actual  
 Conversion,  
 yet a De-  
 mand and  
 Refusal to  
 deliver the  
 Goods de-  
 manded is a  
 sufficient E-  
 vidence of a  
 Conversion.

Trover and Trespass cannot be brought  
 in one Declaration—neither can Trover  
 and *Assumpsit*.

Declaration in Trespass for breaking his  
 Close, eating up and treading down  
 his Grass, with a *Continuando*.

Sonis, ff. **A.** B. queritur de C. D. in cuius Trespass.  
 Hod' Mar', &c. de eo quod  
 ipse C. primo die Maii anno Regni Domi-  
 ni Georgii nunc Regis Magne Britan', &c.  
 duodecimo vi & armis, &c. Ctm ipsius A.  
 vocat White Acre, apud E. in Comd p'dict'  
 P 4 fregit

K.'s Bench. fregit & intravit Et herbam ipsius A. ad valenc' centum solid' nup' crescent cum quibusd' averiis videlicet equis vaccis porcis & bidentibus depast' fuit conculcavit & consumpsit (Transgr' p'dict' quoad p'dict' depast' conculcavit & consumpsit) herbe p'dict' a p'dict' primo die Maii anno supradicto usque primo diem Septembris extunc pr' sequend' diversis diebus & vicibus continuando) Et alia enormia ei adtunc & ibidem intulit ad grave dampnum ipsius A. Et contra pacem dict' Domini Regis nunc unde idem A. dicit quod ipse deteriorat' est Et dampn' habet ad valenciam quadraginta librarum Et inde producit sectam, &c.

### In Assault and Battery,

Sonis, ff. **A.** B. queritur de C. D. in cuius stob' Mar', &c. de eo quod ipse primo die Maii anno Regni Domini Georgii nunc Regis Magni Britan', &c. duodecimo vi & armis videlicet gladiis baculis & cultellis in ipsum A. apud E. insult' fecit & ipsum verberavit vulneravit & maletractavit ita quod de vita ejus maxime desperabatur Et alia enormia ei adtunc & ibidem intulit contra Pacem dict' Domini Regis nunc unde idem A. dicit quod ipse deteriorat' est & dampn' habet ad valenc' 20 l. Et inde producit sectam, &c.

In Assault, Battery and Imprisonment.

Insult fecit & ipsum A. verberavit  
vulneravit imprisonavit & malettractavit & ip-  
sum p'dict' A. in p'isone sine aliqua rationa-  
bili causa contra volunt' ipsius A. & contra  
legem & cons' hujus Regni Angl' p' magnū  
tempus (viz.) p' spatium duorum dierum  
continuit & custodivit Et alia enormia ei ad-  
runc & ibidem intulit contra pacem dict'  
Domini Regis nunc unde idem A. dicit quod  
ipse deteriorat' est & dampnum habet ad va-  
lenc' 40 l. Et inde p'duc' sectam, &c.

Replevin.

ff. A. B. sum' fuit ad respond' C. D. de Repl'.  
p'lito quare cepit averia ipsius C. & ea injuste  
detinuit contra vad' & pleg', &c. Et unde idē  
C. p' R. G. Atrozid' sum' queritur qd' p'dict' A.  
primo die Maii anno Regni Domini Geor-  
gii nunc Regis Angl', &c. duodecimo apud  
S. in Com' p'dict' in quodam loco ibidem vocat'  
Spring-Close, cepit averia ipsius C. videlicet  
duos boves & tres vaccas & ea injuste detinuit  
contra vad' & pleg' quousque, &c. Unde  
p'dict' C. dicit quod ipse deteriorat' est &  
dampnum habet ad valenc' 20 l. Et inde  
p'duc' sectam, &c.

A Re-



K.'s Bench.

A Replevin ought to be certain in setting forth the Number and Kinds of the Cartel distrained, or else it is not good; for if it be uncertain, the Sheriff cannot tell how to make Deliverance of the Cartel, if a Writ be directed to him for that Purpose: Therefore it ought to be expressly mentioned to that Intent in the Replevin.

See more of Declarations in the Second Part.

### A Declaration in Ejectment.

*Mich. 13 Georgii Regis.*

To serve this Declaration in Ejectment on a Tenant of a Lord of Parliament, or Member of the House of Commons, during the Privilege, is Breach thereof.

Soms', ff.

**A.** B. queritur de C. D. in custod' M<sup>r</sup>ar, &c. p eo videat quod cum E. F. Gen<sup>o</sup> decimo die Octobris anno Regni Domini Georgii nunc Regis Magne Britannie, &c. decimo tertio apud W. in Com<sup>o</sup> p<sup>o</sup> dimississet concessisset & ad firm<sup>o</sup> tradidisset p<sup>o</sup>fat A. quinque Messuagia & quinque Cardina (reciting the Parcels) cum p<sup>o</sup>tin<sup>o</sup> situat<sup>o</sup> jacent<sup>o</sup> & existent<sup>o</sup> in Paroch<sup>o</sup> (the Place where) in Com<sup>o</sup> p<sup>o</sup> habend<sup>o</sup> & tenend<sup>o</sup> Tenementa p<sup>o</sup> cum p<sup>o</sup>tin<sup>o</sup> p<sup>o</sup>fat A. & Assign<sup>o</sup> suis ab octavo die Octobris tunc ult<sup>o</sup> p<sup>o</sup>terit<sup>o</sup> usque plenum finem & termin<sup>o</sup> quinque annorum extunc p<sup>o</sup> sequen<sup>o</sup> & plenar<sup>o</sup> complend<sup>o</sup> & finiend<sup>o</sup> virtute cusus quidem dimissionis idem A. in Tenementa p<sup>o</sup> cum p<sup>o</sup>tin<sup>o</sup>

et in intravit & fuit inde possessionat quousque K.'s Bench.  
 p<sup>o</sup> C. postea scilicet eodem decimo die Quob<sup>o</sup>  
 anno decimo tertio supradicto vi & armis, &c.  
 in Tenement p<sup>o</sup> cum p<sup>o</sup> in & sup possessione  
 on ipsius A. inde intravit & ipsum A. a firm<sup>o</sup>  
 sua p<sup>o</sup> Termino suo p<sup>o</sup> inde nondum finit  
 ejecit expulit & amovit ipsumque p<sup>o</sup> A. sic in-  
 de eject' expuls' & amot' a possessione sua in-  
 de extratenuit & adhuc extratenet Et alia  
 enormia ei adtunc & ibidem intulit contra  
 Pacem dic' Domini Regis nunc Et ad  
 dampnū ipsius A. decem libz' Et inde p<sup>o</sup>  
 duc' legam, &c.

Pleadwell p Quer' } Pleā, &c.  
 Cunningham p Def. }

Mr. G. H.

I Am informed that you are in Possession,  
 or claim Title to the Premisses in this  
 Declaration of Ejectment mentioned, or  
 to some Part thereof; and I being sued in  
 this Action as casual Ejector, and having  
 no Claim or Title to the same, do advise  
 you to \* appear next *Hillary*-Term in his\* If the De-  
 Majesty's Court of King's Bench at *West-*claration be  
*minster*, by some Attorney of that Court, in *London* or  
 and then and there by Rule made of the *Middlesex*,  
 same Court, to cause your self to be made then say, the  
 Defendant, in my Stead; otherwise I First Day of  
 shall suffer Judgment therein, to be enter- next *Hillary*-  
 ed against me, and you will be turned out Term.  
 of Possession.

Jan. 5.

1727.

I am Your  
 Loving Friend

C. D.

Note,

K.'s Bench.

*Note,* The Defendant is not arrested upon these Ejectments; for they being usually to try a Title, the first Defendant is some Friend to the Plaintiff; and at the Bottom of this Declaration or Back-side, in his Name, this Notice is given to the Tenant in Possession to defend his Title.

A Copy of this Declaration with the *English* Subscription, must be delivered before the Effoin-Day of the ensuing Term, to the Tenant in Possession himself, or to his Wife; (a Delivery to a Son, Daughter or Servant is not good, unless it appear by Affidavit to the Court, that the Tenant acknowledged the Receipt of such Declaration) the Person that delivers it must read the *English* Subscription to the Tenant, or may tell him the Contents thereof, and that unless he forthwith shall procure some Attorney of the King's Bench to appear for him and defend his Title (if he hath any) he shall be turned out of Possession.

Some Time in the ensuing Term you give a Rule to plead with the Clerk of the Rules: And if the Tenant does not appear and enter into the Rule by Consent, which is hereafter set forth; you must first, in Order to entitle yourself to have Judgment against the casual Ejector, make the following Affidavit of the Service of the Declaration in Ejectment.

The



*The Affidavit.*

*A. B.* maketh Oath that he did on — the — Day of — deliver a Copy of the Declaration hereunto annexed unto *G. H.* Tenant in Possession of Part of the Premises in the said Declaration mentioned, and also on the same Day did deliver one other Copy of the said Declaration unto *D.* the Wife of *E. F.* one other Tenant in Possession of the other Part of the Premises in the said Declaration mentioned; and this Deponent further saith, he told them severally, that it was a Declaration in Ejectment, and unless they did appear by some Attorney of the Court of King's Bench, this present *Hillary*-Term, there would be Judgment thereupon against the Defendant by Default, and they would be turned out of Possession, or Words to that Effect.

*Jur' — die.*  
— *coram me*

*A. B.*

Upon this Affidavit, † at the later End of the Term, you move the Court, that unless the Tenant in Possession, will enter into such Rule, Judgment may be entred against the casual Ejector.

† If in London or Middlesex, you may move the Court the Beginning of the Term, because the Tenant has but a few Days in Term to appear and plead.

The

K.'s Bench. The Clerk of the Rules upon this Motion, keeps the Affidavit and Declaration annext, so that it is proper you have another filled up by you.

You draw up a Rule with the Clerk of the Rules for Judgment against the casual Ejector, and unless the Tenant within the Time given by that Rule, does appear and enter into the Rule by Consent, Judgment may be entred against the casual Ejector by Default, and then a Writ of Possession issues out as you may observe before in the Judgment entered in Ejectment.

But if the Tenant will appear and enter into the Rule by Consent, it is proper his Attorney should first take the following Authority.

*The Warrant to the Tenant's Attorney to appear and plead.*

Mr. K.

**A**pppear for me to this Declaration, and make me Defendant in the Room of C.D. the Nominee Defendant; and enter into the common Rule for confessing the Lease, Entry and Ouster, and thereupon plead Not guilty; and for your so doing this shall be your Warrant; and I hereby promise to pay you your Fees and Disbursements.

I

G. H.

Then

Then the Tenant's Name must be in-K.'s Bench. inserted in the following Rule, and he is made Defendant in the Declaration in the Room of the other Defendant, and must plead Not guilty, and insist upon his Title only at the Trial, &c. otherwise Judgment may be entred by Default.

The Rule by Assent is thus:

Hill. Anno 13 Georgii Regis.

**Sonis, R.** **O**rdinat est ex assensu Attorū *A. B. versus*  
*amborum partium qd G. H. C. D. pro de-*  
 fiat defend in loco modo defend C. D. & com, *cem mess,*  
 parebit indilate ad sectam Quer Et impon *&c. naming*  
 Commune Ballium & recipiet Parc in p<sup>li</sup> *the Parcels*  
 to Transgr & Ejection Firme p tentis in *in G. in Com*  
 questione & p<sup>li</sup>abit adinde non cu<sup>t</sup> indilate *Somerset ex di-*  
 Et super triat Erit cog<sup>n</sup> dimis<sup>s</sup> intrac & *missione E. F.*  
 actual Ejection & insister super titulum tant *The Court*  
 aliter Judic intret p quer versus modo de, *will not com-*  
 fend C. D. p default Et si sup triat Erit p, *pel the De-*  
 dict idem G. non cog<sup>n</sup> dimis<sup>s</sup> intrac & *fendant to*  
 actual Ejection p quod quer Willam suam *enter into a*  
 versus p<sup>li</sup>ct G. ulterius prosequi non poterit *Rule for*  
 tunc nulla mis<sup>s</sup> sive custag sup hujusmodi non *more Lands*  
 p<sup>s</sup> adjudicent Sed p<sup>li</sup>ct G. sol<sup>u</sup> p<sup>li</sup>at quer *or Tene-*  
 mis<sup>s</sup> & custag supinde tarand Et ulterius *ments in the*  
 ordinar est quod si sup triat Erit p<sup>li</sup>ct vere, *Declaration*  
 dia<sup>t</sup> reddit fuerit p defend G. H. vel si acci, *mentioned,*  
 derit p<sup>li</sup>ct quer Willam suam p<sup>li</sup>ct ulterius *than are in*  
 non prosequi propter aliquam aliam caus *his Possession.*  
 sam quam pro non cog<sup>n</sup> dimis<sup>s</sup> intrac &  
 actual



K.'s Bench. actual Ejection p'dict quod tunc dimissio-  
 quer sol p'fat G. mix & custag in ea parte  
 adjudicand, &c.

Both the Attornies      Pleadwell *pro Quer'*  
 set their Hands.      Cunningham *pro Def.*

The Attorney for the Defendant signs this Rule, and leaves it at one of the Judges Chambers, and pleads the General Issue *Non cul'*, which Rule the Attorney for the Plaintiff takes away, and subscribes likewise his Name, and then carries it to the Clerk of the Rules, who thereupon makes out a Rule, which differs but little from this; or if you know the Attorney concerned for the Tenant, you may, to save your Client the Expence of moving the Court against the casual Ejector, apply to him to enter into the Rule by Consent without such Motion.

After this Rule is drawn up by the Clerk of the Rules, on the Rule by Consent signed by the Attornies, you deliver your Issue with a Copy of such Rule, enter your Proceedings, make up your Record, and sue out your *Venire* and *Disstringas*, as is before directed.

If an Ejectment be brought for Nonpayment of Rent, the Defendant may, on Motion or by Summons before a Judge, have the Proceedings stayed upon Payment of the Rent and Costs.

*Note*, If the Plaintiff suffer a *Non Pros* at the Assizes, *quia Def. non Cogn*, &c. It is said you need not stamp the Record for *Postea* or *Judgment*, but only to shew the Record from the Assizes; and Judgment will be signed upon the Rule by Consent.

In this Title of *Ejectment* it may be useful to speak something concerning Proceedings by Original.

*And note*, That *Proceedings* by Original Proceedings are not so often used in this Court, the by Original. Attornies not being so well versed in that Method; as also it is more subject and liable to Errors: However, in some Cases, as in *Ejectment*, that Practice is very necessary to be understood; and seeing I do not find it set forth in any Books that treat of this Subject, I think it may be useful to insert it. The Method is much after the Manner of the Court of *Common Pleas*, and the Advantage is, That a Writ of Error upon a Judgment in *Ejectment* by Original cannot be brought, or at least returnable, but when the Parliament is sitting, which is of great Use for the speedy Getting into Possession: As you ought to have a *Latitat*, to warrant your *Ejectment* brought in the usual Manner by Bill in the Country: So in this Way of Proceeding, you ought to have an Original

Q

K.'s Bench. nal, which is the Foundation of the Action.

Draw a *Præcipe*, which is the Instruction to the Cursitor of the County where the Land lieth, to make the Original in this Manner:

*Pone* for an Original in Ejectment.

*Som̃s, ff.* (The County where the Land lieth) *si* A. B. (*viz.* the Plaintiff) *fec̃, &c.* tunc pone, *&c.* T. D. (*viz.* the Defendant) *nup̃ de* F. in *Com̃ p̃dict̃* *pro-*  
man; (Note, you must put the Defendant's Addition, or else it is Error) *ad res-*  
*spondend̃ p̃fat̃* A. B. *de placito* quare vi & ar-  
mis unum messuagium centum acras terre  
quingagint̃ ac̃ p̃ati & quingagint̃ ac̃  
pasture cum p̃tineñ in G. (*viz.* the Parish  
where the Land lieth, and the House and  
Land as you lay them in the Declaration)  
que S. (*viz.* the Lessor of the Plaintiff,  
that is, the Person that hath the Title in  
him) *p̃fat̃* A. B. *dimisit ad terminum* qui  
nondum p̃terit̃ intravit & ipsum a firma  
sua p̃dict̃ *esecit & al̃* Enormia, *&c.* ad grave  
dampnum, *&c.* Et contra pacem, *&c.* res-  
tut̃ in *Octab̃ Sancti Hillarii* ubicunque,  
*&c.* in B. R.

Carry this *Præcipe* or Instruction to the Cursitor of the County where the Land lieth, at the Cursitor's Office in Chancery-Lane, and he will make you out the Original, for which you pay him 2 s. 6 d. The Original must be returnable on a general Return-Day, as in *Octabis Sancti Hillarii*, and may be the first Return of the



the Term, whereof your Declaration is; K.'s Bench. That is, if you have Judgment against the casual Ejector for that the Tenant doth not enter into a Rule and plead, then your Original must be against the casual Ejector; but if the Tenant appear and plead, then your Original must be made against the Tenant, and not against the casual Ejector. *Nota.*

Which Original you must get returned by the Sheriff, to whom it is directed, although the Practice usually is for the Plaintiff's Attorney to return the Original: And after it is returned, it ought to be filed with the *Custos Brevium* of the King's Bench.

### The Form of a Declaration in Ejectment by Original.

*Mich' Anno duodecimo Georgii Regis.*

South. II. **C**AROLUS Draper (the Defendant) *Super de Peters-* The Court will not permit the Plaintiff in Ejectment to amend his Declaration, tho' before the Plea pleaded; but he must stand or fall by it, or deliver a new Declaration; neither will the Court give Costs, where it appears, that there was only one Declaration delivered, and no Proceedings thereon; but when several Declarations have been delivered, and no Proceedings on either, there they give Costs for the Vexatiousness of such Proceedings.

K.'s Bench. Parish where the Land lieth) in Cord pō  
 que J. S. (the Person that hath the Ticle  
 in him) eidem A. B. dimisit ad Terminum  
 qui nondum p̄terit intrabit & ipsum a  
 firma sua p̄dict' Efecit & a<sup>p</sup> enozmia ei intus-  
 lit ad grave dampnum ipsius A. B. Et contra  
 pacem Domini Regis nunc, &c. Et unde id  
 A. B. p J. P. Attonatum suum queritur quod  
 cum p̄dictus J. S. decimo die Octobris anno  
 Regni die Domini Regis nunc decimo apud  
 E. p̄dict' (viz. the same Parish where the  
 Land lieth) dimississet eidem A. B. tenementū  
 p̄dict' cum p̄tinentiis habendū & occupandū tenes-  
 menta p̄dicta cum p̄tinentiis eidem A. B. & als  
 signat suis a nono die Octobris tunc ult' p̄tes-  
 rit usque plenum finem & terminum quinque  
 annorum extunc p̄r' sequendū plenar' complendū  
 & finiendū Virtute cuius quidem dimissionis  
 idem A. B. in tenementa p̄dicta cum p̄tinentiis in-  
 travit & fuit inde possessionat ipsoque A. B. sic  
 inde possessionat existendū p̄dict' C. D. (viz. the  
 Defendant) postea scilicet eodem decimo die  
 Octobris anno decimo suprad' vi & armis, &c.  
 in tenementū p̄dict' cum p̄tinentiis que p̄fat J. S.  
 (viz. the Lessor) eidem A. B. in forma p̄dict'  
 dimisit ad terminum p̄dict' qui nondum p̄tes-  
 rit intravit & ipsum A. B. a firma sua p̄dict'  
 efecit & a<sup>p</sup> enozmia, &c. ad grave dampnū,  
 &c. Et contra pacem, &c. unde dicit quod de-  
 teriorat est & dampnū habet ad valenc' 10 l.  
 Et inde p̄ducit lectam, &c.

No Pleg'  
 when by  
 Original.

Then

Then write Notice to the Tenant or Tenants in Possession, as in the former Instructions in Ejectment, and serve it before the Effoin-Day of the ensuing Term ————make your Affidavit of Service of the Declaration (for which see before) and move for Judgment against the casual Ejector, and draw up the Rule if the Tenant do not appear, and leave a Rule at the Judge's Chamber.

You may buy blank Declarations with the English.

\* The Rule by Consent on an Original is the same as the foregoing Rule, only you

And if the Rule be left, then take it from the Judge's Chamber and enter it with the Clerk of the Rules as before, and write your Declaration *de novo*, copy-wise for your Issue, which must be of the same Term, (*viz.* of *Hillary*) your first Declaration being of *Michaelmas*, and then instead of C. D. the casual Ejector, your first Defendant, put in the Name of the new Defendant mentioned in the Rule left in the Judge's Chamber, and his Addition; for that is necessary in this Action, and so alter the Declaration as to the Defendant's Name, and leave out the Notice to the Tenant, as in the former Instructions, and the Defendant's Attorney must plead *Non culp*.

leave out *Et impon' commune ballium*, and instead of *billam suam* insert *breve suum*.



*Note,* You should write the Declaration copy-wise, and make the Defendant's Attorney a Copy thereof, for which he now pays Six-pence *per Sheet*; then draw up your Issue; but you must not begin *Memozandum quod* die, &c. but leave out all the *Memozandum*, and begin as the Declaration begins, and then the Imparlance, as follows:

Et *poicus* C. D. (the new Defendant)  
 p J. C. *Attornatum* suum *ven* & defend  
 him & *injuriam* quando, &c. Et *dic* quod ip  
 se in nullo est *culpabilis* de *Transgr* & *Exec*  
*con* *poict* put *poicus* A. B. (the Plaintiff)  
*supius* *versus* eum *queritur* & de hoc *pon* se  
*sup* *Patriam* & *pd* A. B. *lit*, &c. *Id* *precept*  
 est *hic* qd *ven* *fac* *cor* *Dno* *Rege* in *Octab*  
*Pur* *Weste* *Marie* (the last Return of the  
 same Term) *ubicunque* *tunc* *dictus* *Dominus*  
*Rex* *fidit* in *Anglia* *duodecim*, &c. p quos,  
 &c. & qui nec, &c. ad *Recognd*, &c. quia  
 tam, &c. *Idem* *dies* *dat* est *partibus* *pd*, &c.

*Cop' exit.*

Deliver a Copy of this Issue to the Defendant's Attorney, for which he must also pay you Six pence *per Fol.* and for entering Plea and Warrant of Attorney, Two Shillings and Eight-pence. He should also pay for entering the Rule Two Shillings, it being his Rule, not the Plaintiff's, and give him Notice of Trial, as before.

Here

Here *note*, That your *Venire* which is K.'s Bench. mentioned at the End of the Imparlance, must be returnable on a general Return-Day as in *Octab Pur Beate Marie*, as in *Ret' ubicunq;* common Pleas; but it must be also *ubicunque tunc fuerimus in Anglia*, in which it differs from the common Pleas; and the true Reason of this Difference is, because in ancient Times the Court of King's Bench was not fixed or held in any particular certain Place, as now it is, but followed the King's Court, and was held wherever the King was: And also you must observe, That all your other Writs in this Way of Proceeding, as well the *Distingas* before the Trial, as the Writ of Possession, and other Executory Writs after the Trial, must also be returnable on a general Return-Day, *ubicunque tunc fuerimus in Anglia*, and the Jurat of the Record of the *Nisi Prius* must be as after-mentioned.

Having made your *Venire* returnable on a general Return-Day *ubicunque tunc fuer* in Anglia, you must get it returned by the Under-Sheriff, and then make out your *Distingas* as in the former Proceedings; only it must be returnable on a general Return-Day, as a *die Pasche* in *quindecim dies ubicunque tunc fuerimus in Anglia*, (*viz.*) the the First Return of the ensuing Term: Then make up your Record, of which the First *Placita* must be exactly as in the *Placita*. other Way, only you must leave out the *Memorandum*, and begin with the Declaration, as you did in the Issue.

K.'s Bench. After you have engrossed the Declaration and Plea, and the Second *Placita* is inserted, you come to the *Jurat* which must be *Jurat* int A. B. p Attozmatum suum quer & C. D. (Addition as in the Declaration) de placito Transgr & Ejectionis firme ponitur in Respectum coram Domino Rege ubicunque tunc dicitur Dominus Rex fidei in Anglia usque a die Pasch in quindecim dies, (viz. the Return of the *Disfringas*,) and the rest as in the other *Jurat*.

Seal.

You seal the Record at the same Office in *Grey's Inn*, and pay the same Fees; then draw your *Breviat*, in which you make a short Recital of the Declaration, and add the Plea, and that the Defendant is to confess Lease, Entry and Ouster by Rule of Court, &c.

*Breviats.*

Many unexperienced Attornies are much defective in the *Breviats*; the most approved Way is, first write in the Margent or in the Middle, the Plaintiff's Title; then begin with the Person who was seized in Fee of the Premisses in Question, and under whom the Lessor of the Plaintiff your Client claims, and deduce the Title carefully and orderly from such Persons so seized to your Client, setting forth the Dates and Contents of the Conveyances, and observe how they are executed, whether by Livery of Seisin, or by Inrolment, or by Lease and Release, or by Fine and Deed of Uses, or if your Client be in by Purchase, and take particular Care how to prove the Deed, as the Law requires. The Chirograph of a  
Fine

Plaintiff's  
Title.

Deeds prov'd



Fine proves it self, and so doth a Deed K.'s Bench. inroll'd, according to the Statute, and so doth every ancient deed, where Possession hath gone accordingly.

If all the Witnesses to a later Deed are dead, you must endeavour to prove that they are dead, and that their Names set as Witnesses to the Deed are of their Hand Writing, and to prove the Grantor's Hand: And sometimes it is necessary, if it be not an old Title, to prove the Person seized, and in Possession, under whom you claim.

If you claim by Will, which is not proved in Chancery, a Copy of the Will out of the Spiritual Court, is no Evidence for that Purpose; but you must have the Will it self out of the Office, which the Proctors there will put you in a Way to obtain upon Security: And if the Will be proved in Chancery, you must have a Copy of Bill, Answer and Depositions, and prove them true Copies examined with the Records; but if the Witnesses to such Will, are living, they must prove the same *viva voce*, or else make proper Affidavits, that they are in an ill State of Health, &c. to induce the Court to read such Depositions.

If your Client be in by Discent, prove the Ancestor seized in Fee under whom you claim, and set forth and prove your Pedigree, and likewise draw it in the Form of a Pedigree in the Margent of your Declaration, that your Counsel may apprehend it without Perplexity.

If

**K.'s Bench.** If the State be Copyhold, you must prove it Part of such a Manor, and you must prove the Admissions to be true Copies of the Court Rolls.

**Copyhold.** When you have set forth your Client's Title and your Proofs, it is a good Way also to set forth the Defendant's Title, or pretended Title, so far as you can come to the Knowledge of it, that your Counsel may be in some Measure informed and prepared against it.

**Defendant's Title.** What Titles triable by Ejectment. All Titles cannot be tried by Ejectment; for where the Entry is taken away, an Ejectment lieth not, as by Disseisins and Discents, Fines and Recoveries, and Non-claims, and Limitations, which are not here to be treated of; and therefore if your Client claim by a stale Title, as above Twenty-one Years Standing, and be not helped by Nonage, *Oustre le Mere*, Imprisonment, Coverture, &c. you will be in Danger to fail in your Action; and the like in Cases of Fines and Non-claims; so that it is safest to have the Advice of Counsel before Trial, if the Question be any Thing intricate.

**Plaintiff nonsuited.** And also observe, That if the Lessor of the Plaintiff doth not prove a good and absolute Title in himself, he will be nonsuited, though the Defendant have no Title at all; for the Defendant's Possession will secure him.

And also if he can make appear, That a Third Person, not concerned in that Action, hath Title in him, that shall nonsuit the Plaintiff.

Another Thing to be observed is, That K.'s Bench. the Plaintiff is sometimes nonsuited thro' Inadvertency. As for Instance;

If the Mortgagor make a Lease of the Premisses for seven Years at an improved Rent, and some Time after mortgages the Lands for Payment of a Sum of Money with Interest; at the Expiration of a Year or Two, the Money not being paid, the Mortgagee brings his Ejectment against the Tenant to recover the Possession, to which the Tenant appears and makes himself Defendant, and at the Trial produceth and proves the Lease; which being prior to the Mortgage, and not expired, the Plaintiff will be nonsuited, though he hath a good Title, and by Virtue whereof he might have compelled the Tenant to attorn, if a right Method had been used.

These few Observations, as is said before, are intended for young Beginners and unexperienced Practisers, and even sometimes the more able happen to be surprized by such Accidents.

After your Trial call for your Record with the *Possea* indorsed, and your *Distringas*, and give a Rule on the *Possea*, and tax the Costs, and enter your Judgment, and take out your Writ of Possession, as in the former Directions; only you must make your Writ returnable on a general Return-Day *ubicunque tunc fuer in Anglia*, as aforesaid; and say, cum, &c. p  
bve



K.'s Bench. *breve nostr'* and not p William [and pay the Fine on the *Capiatur* to the Secondary's Clerk before the Secondary will tax Costs; and so you must, if you proceed in the usual Manner upon the *Latitat* upon Action of Trespass.]

But if this Action be in *London* or *Middlesex*, you take the Record and *Distringas* from the Sociat immediately after the Trial is over, and indorse the *Postea* on the Record your self.

See Instructions for entring up Judgment in other Actions.

Writ of Error.

It is generally held, That if there be a Parliament in Being, as by Adjournment or Prorogation, though not actually sitting; yet a Writ of Error returnable in Parliament-Time may be sued out; and that the Shewing the same to the Plaintiff's Attorney, is a *Supersedeas*.

Others think, it ought to be allowed before it can have the Effect of a *Supersedeas*.

But that Honourable Court is of so high a Nature, that great Care must be taken to pay due Respect and Obedience to any Process there returnable.

*Observations*

*Observations on delivering Declarations.*

When you have Bail, as is before observed, the next Thing is to draw your Declaration, wherein (in special Cases) there is often great Difficulty; and it is a Fee very usefully bestowed to advise with able Counsel upon the Declaration.

Many Causes do miscarry, and many Delays and Charges happen by Demurrers, Arrests of Judgment, and Writs of Error, for Want of good Advice on the Declaration at first: But Clerks (at least for some Time) are employed only in the general and usual Forms of common Declarations, of which ye may find many necessary Precedents here inserted: But the Second Part of *Instructor Clericalis* wholly concerns Declarations, and the other Parts chiefly relate to Bars and Pleadings.

You write the Term and Year of the King on the Top of the Declaration, the County in the Margent, the Attorney's Name at the Bottom [*pleg' de psequens*, &c.] as before observed.

Carry the Declaration (of which you must keep a Copy) to the Defendant's Attorney: You must deliver it before the Effoin-day of the ensuing Term (which is the First general Return) or else you cannot compel him to plead that Term; and he must pay you for it 4 *d.* per Sheet, &c.

And

**K.'s Bench.** And *note*, If you do not deliver it before the Rising of the Court, the last Day of the Second Term, the Defendant may have Judgment and Costs (on a *Non Profs* in Manner hereafter mentioned) against the Plaintiff for not declaring in Two Terms, and then you may bring an Action of Debt on the *Non Profs*.

It was the ancient Practice to write the Declaration on Parchment, and file it in the Office, for which they paid 4 *d.* but now that is not done; except against Attornies and Prisoners, and when Writs of Error are brought: And the Declaration must be filed on Writs of Error, the same Term it is of.

When you cannot find out where the Defendant's Attorney lives, to deliver him the Declaration, you may engross it on Paper and leave it in the Office, which will be as effectual as if you delivered it to the Attorney; but you ought to give Notice either to the Attorney when you can find him, or to the Defendant: Or you may deliver the Declaration to the Defendant himself, or leave it at his House or Lodgings.

The First Day of the ensuing Term you make up your Paper of Rules, writing the Term on the Top, and then *A. B. versus C. D.* and so all your Causes wherein you are for the Plaintiff, one under another, and subscribe your Name at the Bottom; carry your Paper to the Clerk of the Rules, and he will enter them and give one peremptory Rule to plead



plead in about Eight Days; you pay him K.'s Bench.  
1 s. 4 d. for each Rule or Cause.

You must also remember to call on the Defendant's Attorney for a Plea, before the Rules for pleading are out; and it is an usual and good Way to demand such Plea by a Note in writing in this Manner:

Mr. C.

A. }  
B. } Quer petit respons.

Jan. 2.

1727.

Pleadwell p Quer.

Or otherwise in *English*, that you expect a Plea.

You may search the Clerk of the Papers Plea Books the Fourth or Fifth Day of the Term, to see whether the Defendant hath not put in a special Plea, as in Abatement, or in Bar, &c. that you may lose no Time; and for general Pleas you search the Office-Book with Mr. *Lantrow*.

### Of delivering Declarations to Prisoners.

Formerly when the Defendant was committed to Gaol for Want of Bail; unless the Plaintiff, before the End of Two Terms next after the Arrest, did cause the Defendant to be removed by *Habeas Corpus* to

K.'s Bench. to be charged in Court, the Prisoner, upon common Bail or Appearance of Attorney, was discharged from Imprisonment to the Plaintiff's Prejudice: Therefore by the Statute 4 & 5 Will. & Mar. cap. 21. it is enacted, *That where the Defendant is taken or charged in Custody upon any Writ out of the Courts at Westminster, and imprisoned for Want of Sureties for his Appearance; the Plaintiff, before the End of the next Term after such Writ shall be returnable, may declare against such Prisoner in the Court out of which the Writ issued, whereupon such Prisoner shall be taken or charged in Custody, and may cause a true Copy thereof to be delivered unto such Prisoner or to the Gaoler or Keeper of the Prison, or Gaoler in whose Custody such Prisoner shall be and remain; to which Declaration the said Prisoner shall appear and plead: But if he shall not appear and plead thereto, the Plaintiff in such Case shall have Judgment, as if the Prisoner had appeared and refused to plead, That in all such Declarations against such Prisoners, it shall be alledged in the Custody of what Sheriff, Bailiff or Steward of any Franchise, or other Person having Return and Execution of Writs, such Prisoner shall be at the Time of such Declaration; which Allegation shall be as good and effectual, as if such Prisoner was in the Custody of the Marshal of the Marshalsea.*

*The Judges of the Court of King's Bench,  
have on this Act made the following Rule  
for delivering Declarations to Prisoners.*

**F**IRST, That no Copy of a Declaration be delivered to a Prisoner in Custody, before the Day of the Return of the Process, upon which the Defendant was taken or charged in Custody.

*Secondly*, That no Rule be given for the Defendant in Custody to appear and plead to any Declaration against him, till an \* Affidavit be filed with the Clerk of the Rules, of the Delivery of a Copy of such Declaration, and the Time when, and the Person to whom the said Copy was delivered; and that the Defendant was arrested, or charged in Custody, by Process of this Court, returnable before the Delivery of such Copy; and that the Time when such Affidavit was filed, be entered upon the said Affidavit by the Clerk of the Rules, and a Copy of such Affidavit be produced to the Prothonotary or Secondary before Signing of Judgment.

*Vide postea*  
the Form  
of an Affidavit.  
*Vide postea*  
the Manner  
of doing  
this.

*Thirdly*, If a Copy of the Declaration be delivered against such Defendant, before *Mensem Paschæ*, or *Crastinum Animum*, and Affidavit thereof made and filed, and the Defendant doth not appear before the End of Ten Days after *Easter* and *Michaelmas* Term respectively, Judgment

R

may



**K.'s Bench.** may be entred against him, if Rules have been given: But if he doth appear before the End of Ten Days after the Term, he shall imparle until the next Term; (unless the Action be in *London* or *Middlesex*, and the Defendant be in Prison within Forty Miles of *London* or *Westminster*) then tho' he doth appear before the Expiration of Ten Days after the End of the Term, he shall plead Two Days before the Effoin-Day of the next Term; and in Default thereof (Rules having been given) Judgment may be entred against him, as aforesaid.

*Fourthly*, If a Copy of the Declaration be delivered against such Defendant, on or after *Mensem Paschæ* in Easter-Term, or *Crastinum Animarum* in Michaelmas-Term, or in *Hillary* or *Trinity*-Term, and thereupon the Plaintiff give Rule to appear and answer; then must the Defendant appear Two Days before the Effoin-day of the next Term: But if he does not appear within that Time, Judgment shall be given against him.

*Fifthly*, If a Writ be returnable in any Term, and a Copy of the Declaration has been delivered before the Effoin-day of the next Term; the Plaintiff in such next Term may give Rules to appear and answer: And if the Defendant does not appear and plead upon the Expiration of the Rules, Judgment shall be given against him.

*Sixthly*, If the Declaration be not filed K.'s Bench: before the End of the next Term, after the Writ or Process (by which the Prisoner was taken or charged in Custody) is returnable, and Affidavit made and filed in Manner as aforesaid, before the End of Twenty Days next after such Term, the Prisoner shall be discharged by common Bail, signed by one of the Justices of this Court.

*Seventhly*, If any Gaoler or Keeper of a Prison, having received a Copy of a Declaration against any Prisoner in his Custody, shall suppress the same, and not deliver it forthwith to the Prisoner, an Attachment shall be issued against him.

*John Holt,* } *William Gregory,*  
*William Dolben,* } *Giles Eyre.*

Before you deliver the Declaration to the Gaoler or Keeper, you must engross it on Parchment with double 1 *d.* Stamp and file it with the Clerk of the *Narr's*, then deliver a Copy on Paper with double 1 *d.* Stamp to the Gaoler or Keeper, asking at the same Time, if the Defendant is a Prisoner, or not? Or you may deliver it to the Defendant himself in Custody; having done this, you make another Copy of the Declaration on 1 *d.* Stamp, which must be annexed to the following Affidavit before you can give a Rule for the Defendant to appear and plead.

K.'s Bench: *A. B.* of, &c. maketh Oath, That this Deponent did on the Second Day of *May* last, deliver unto the Keeper or Gaoler of the Gaol-Prison of the County of *Berks*, a true Copy of the Declaration hereunto annexed, and the said Gaoler or Keeper then confessed unto this Deponent, That the said Defendant was a Prisoner in the said Prison, and that he would deliver the Declaration to him; and this Deponent saith, That the said Defendant was arrested or charged at this Deponent's Suit, by Virtue of a *Latitat* issuing out of this Court, returnable before the Delivery of the said Declaration.

Affidavit of  
the Delivery  
of a Decla-  
ration a-  
gainst a Pri-  
soner.

*Jur' — die — Anno*  
*Dom' — coram me*

*A. B.*

After you have sworn this Affidavit with the Declaration annexed, you may make a Copy of the Affidavit on double 6 *d.* Stamp, and another Copy of the Declaration on double 1 *d.* Stamp, and annex them together, then carry both Affidavits and Declarations to the Clerk of the Rules who will keep the original Affidavit and Declaration annexed, and will write on the Bottom of the Copy of the Affidavit, *examinat' cum Sacro Affil' — die —*  
*anno 12 Georgii Regis.*

Then go to the Master of the King's Bench Office with this Affidavit and Declaration, and he will give you a Rule on the Affidavit for Time for the Defendant  
to



to appear and plead, then you go back to K.'s Bench. the Clerk of the Rules, and he enters in his Paper, the Rule given by the Master, and marks under the Rule on the Affidavit, *Intratur*. And if the Defendant does not appear and plead according to the Time given by the Rule, (a Rule to plead being demanded,) you sign your Judgment against the Defendant.

*Note,* You need not make any Affidavit of the Delivery of a Declaration against a Prisoner in Custody of the Marshal of the King's Bench, but you give a Rule to plead of Course, with the Clerk of the Rules, and the Defendant is obliged to plead when the Rule is out, which is in about Eight Days, otherwise a Plea being demanded, you take your Judgment against him.

*Note,* If you charge a Prisoner in Custody of the Marshal in the Vacation, you must go to the Marshal's Book, and make an Entry *Quod remaneat in Custod' ad sectam J. S.* as you will see several Forms in that Book, and the ensuing Term you declare against him in Custody.

Having obtained your Judgment against the Defendant, you apply to the Clerk of the Rules for a Rule in Order to charge the Defendant in Execution, and he will without Motion, draw you up such Rule accordingly, for which you pay him 4 s. Make a Copy of the Rule, and serve the

K.'s Bench. same on the Marshal, who will on your  
 ~~~~~ Paying him 10 s. 6 d. write on the Bottom  
 of the Rule his Acknowledgment of the
 Defendant's being in his Custody, then
 enter a *Committitur* in the Marshal's Book
 with Mr. Lantrow, for which you pay him
 2 d. in this Manner:

Feb. 1. 1726. Lond, ff. **C**. D. a'ts dict', &c. *Committitur*
 * If in Case *custod Mar Marese in*
prosol. in pl'ito *Executione ad sectam A. B.* * p 50 l. de
transgress' su- debito & 53 s. pro missis & ibidem remansur'
per Casum & quousq, &c.
ibidem, (Etc.) G. F. Attoꝝd.

Then make out a *Committitur* on Parchment in the same Manner as above, leaving out the Date in the Margin, and adding the Term and Number-Roll of the Judgment.

You file this *Committitur* with Mr. Hawley, the Signer of the *Latitats*, for which you pay him 2 s. and he will deliver the *Committitur* to Mr. Lantrow, who will enter it upon the same Roll your Judgment is of; after this Manner:

Postea scilicet p'dict' die Mercurii prox'
 post quinden' Sancte Trinitatis isto eodem
 Termino cor' Doñno Rege apud Westm'
 ben' p'dict' A. B. in p'pria p'sona sua Et p'dict'
 C. adunc p'sens hic in Cur' ad petitione p'd'
 A. commissus est custod Mar', &c. in Execu-
 zone p debito & dampnis p'dict' remansur'
 quousque, &c.

When

When you admit a Guardian for an Infant before a Judge, to prosecute and defend, do in this Manner:

Take a Piece of Parchment like a Bail-piece, then write thus:

Admission of a Guardian for an Infant before a Judge.

Scias, ff.

J. B. qui infra etat viginti
& unius annozum existit
admissus est p Cur' Dni
Regis coram ipso Rege
p J. S. Gen' Guardian
sui ad prosequend & de-
fend omnes & omnimod
Actiones & Adus in ead
Cur' dependend ad lect'
W. B.

R. Raymond.

You must carry this to the Clerk of the Rules and file and enter it with him, for it is no Record, until you have done so, and the Clerk of the Rules will draw you up a Rule upon this Admission.



Of Pleas.

PLeas are either General or Special.

A general Plea is pleaded on a little Piece of 2 *d.* stamped Paper, without Counsel's Hand, only the Defendant's Attorney's Name to it, and he pays the Plaintiff's Attorney for entring it; as in Case thus:

*Non Assumpsit p J. C. sol' 16 d. [or
Non Cul, Non est fact', Nil debet, &c. as
the Case is.]*

Jan. 4. 1726.

Cunningham p Def.

Special Pleadings are drawn up in Form, setting forth the Matter pleaded at Large, with an apt Conclusion to the Declaration, or to the Action, as the Case is, and must be signed by Counsel, or else cannot be received.

And by Rule of Court *Mich. 2 W. & M.* such special Pleadings must be left with the Clerk of the Papers, and entered into the Book of the proper Clerk, and not delivered to, or received by the Attorney.

They are generally of two Sorts: Pleas in Abatement, which we may call Temporary; for they do not go to destroy the Action, but only stop it for a Time until the Obstacle pleaded be removed.

As to plead, That the Plaintiff is ex-K.'s Bench. communicated, or is outlawed; that doth not destroy the Action, but only suspend it till the Plaintiff take off his Excommunication, or reverse the Outlawry, and then he may proceed in his Action.

Or, That the Plaintiff is an Alien Enemy; for he may be made a free Denizen or naturalized, and then the Obstacle is removed.

A Misnomer of the Defendant's Christian or Surname, or naming him Executor, when he is Administrator, the Plaintiff may bring a new Action without paying Costs by the right Name, or as Administrator.

Pleas in Abatement are very various: For Instance; To the Name, the Addition, Death, Covert-Baron, one of the Executors or Administrators not named, Infancy in Plaintiff or Defendant, (tho' Infancy in the Defendant may also be given in Evidence at the Trial, and will nonsuit the Plaintiff, tho' not pleaded) other Actions depending; Privilege, That the Defendant is an Attorney of the Common Pleas, and ought not to be sued in the King's Bench, (except the Plaintiff be an Attorney of King's Bench) and the like.

Whereof in *Townsend's Tables*, and *Cornwal's* new Tables to the Entries, you will find References to good Precedents, and also in 3 *Inst. Cler.*

Formerly those Pleas were often merely dilatory, and therefore it was enacted by Stat. 4 & 5 *An.* for the Amendment of the Law,

K.'s Bench. Law, *That no dilatory Plea should be received in any Court of Record, unless the Party offering the same, doth by Affidavit prove the Truth thereof, or shew some probable Matter to the Court to induce them to believe that the Fact of such dilatory Plea is true.*

The Form of an Affidavit.

In B. R.

A. B. vs C. D.


C. D. the Defendant in this Cause maketh Oath, That the Substance and Matter of Fact, in the Plea hereto annexed, is true.

Another Form.

Misprision of the County. **E.** F. Gent. maketh Oath, That the Liberty of E. is in the County of S. and not in the County of M. as the Plaintiff by the Declaration hereunto annexed, hath alledged.

But if the Plea be for a Filazer, or other Officer, there need not be any Affidavit, but a Copy of the Grant of the Office affixed to the Plea.

Note, Where a Declaration is delivered before the Effoin-Day of the Term, the Defendant hath Four Days in that Term to

to plead in Abatement — But if he plead K.'s Bench. not till after the Four Days are expired,  then it is after Impar lance.

Within the Four Days of the Term the Plaintiff is bound to take it without Impar lance, but after the Four Days an Impar lance must be entered.

A Plea in Abatement must conclude to the Declaration; as, *Et hoc paratus est verificare unde per Judic de Bill (or Barr) pō & qd Willa illa cassetur.*

Or, If the Plaintiff be an Alien Enemy, *Unde per Judic si pōia' A. (the Plaintiff) ad Willam pō respond debeat, &c.*

It may not be amiss to insert one Precedent for our Young Clerk's Instruction.

Misnomer of the Surname.

Et pōia' Carolus p Jacobum Cunningham Attornat suum venit & defendit vim & injur', &c. (but you must not put quando, as in Pleas in Bar) Et per Judic de Willa pō quia dic qd ipse pō Carolus nominatur & hoc p nomen Caroli Dolson ac p eadem nomen & cognomen a tempore Partivitatis sue hucusque semper cogit & vocat fuit & non p nomen Car' Dodson put in Willa pōia' superius nominatur Et hoc parat est verificare Unde per Judic de Willa pōia' & quod Willa illa cassetur.

E. F.

The



The Replication.

Et p̄dict' A. B. dic' quod p̄ aliqua p̄ p̄dicta Carolum superius placitando allegat Willa sua p̄dict' cassari non debet quia dic' quod idē Carolus nominatur & voc' & die exhibitionis bille p̄dict' nominat & vocat fuit tam p̄ nomē Caroli Dodson quam per nomen Caroli Dolson Et hoc pet' quod inquiratur p̄ patriā, &c.

G. H.

The Defendant's Attorney must be cautious how he rejoins to the Plaintiff's Replication; for if he join Issue, and' it be found against him, the Judgment is final: The usual Way is to demur to the Replication, and then the Judgment can be but a *Respondeas Ouster*; that is, the Defendant shall plead another Plea, which may be either special or general, and such Plea must be pleaded in—Days.

Pleas in Bar. Note, That Pleas in Bar may destroy the Plaintiff's Action for ever; as if the Defendant pleads a general Release.

Also as a Plea in Abatement concludes to the Declaration, so in Bar it must conclude to the Action; as *Et hoc parat' est verificare unde pet' Judic' si p̄dict' A. B. action' suam p̄dict' inde versus eum habere seu manutenere debeat, &c.*

Special

Special Pleas are left with the Clerks of K.'s Bench. the Papers: Either with Mr. *Benton* or Mr. *Russel*; viz. with Mr. *Benton*, when the Plaintiff's Name begins with *A.* and with Mr. *Russel*, when the Plaintiff's Name begins with *B.* and so alternative thro' the Alphabet; therefore when you are for the Plaintiff, you carry your Declaration to the Clerk of the Papers, and he will make up your Paper-Book; or you may take a Copy of such Plea from him, and make it up yourself copywise, and let him peruse it, and he will write a * Rule on the Side * It is said, of the Book to this Purpose, That if the Defendant do not receive the Paper-Book, Rule to return the Paper-Book is out, you may refuse to accept it without a new Rule, unless it be within one Day of the Time; but then you may detain it Four Days inclusive.

You deliver this Paper-Book to the Defendant's Attorney, and at the same Time give him Notice of Trial on the Back of the Book; and if the Defendant's Attorney does not return the Paper-Book according to the Rule, you take your Judgment, and execute your Writ of Enquiry on the Day given for Trial; but if he returns the Book in Time, and will stand to the Plea pleaded, and pays you 8 *d.* per Sheet for the Pleadings on his Part; you proceed to Trial according to the Notice; but if the Defendant's Attorney will not proceed to Trial, but demurs to the Plaintiff's Replication; he first scratches out, at the Bottom of the Replication, his Joining Issue, and leaves a Demurrer in the Office, and

K.'s Bench. and returns the Paper-Book to the Plaintiff's Attorney with Notice thereon, that he has left a Demurrer in the Office.

Whereupon the Plaintiff's Attorney carries the Paper-Book to the Clerk of the Papers, and he will add the Demurrer and Joinder in Demurrer, and then the Plaintiff's Attorney delivers the Paper-Book again to the Defendant's Attorney; which if he does not return to the Plaintiff's Attorney in a Day, and pay him 8*d.* *per Folio* for the Pleadings on his Part, you sign your Judgment; but if he does return it and pay you, you make an *Incipitur* on the Roll, and enter the Proceedings with Mr. *Lantrow*; then give your Roll to your Counsel, and he will move for a *Concilium*, and the Clerk of the Papers will mark in the Margent of the Record *Leſt'*; you draw up the Rule thereupon, with the Clerk of the Rules; enter your Cause in the Clerk of the Paper's Book, and serve the Rule on the Defendant's Attorney, and make up the Books for the Judges: You pay each of their Clerks 2*s.* then by Counsel you argue the Demurrer; and if Judgment goes for the Plaintiff before the Expiration of the Notice for Trial, you may execute your Writ of Enquiry the same Day on which Notice was given for Trial, in Pursuance of a Rule made 6 *Georgii*, to the Effect following: Reciting that, *whereas Plaintiffs were greatly delayed by the Defendants Demurring after the Plaintiff had taken Issue upon the Defendants Plea, and had delivered*

vered the Paper-Book with Notice of Trial according to the Practice of this Court, for that, that after Judgment obtained for the Plaintiff, upon such Demurrer, there is not sufficient Time in Term to give Notice of Executing a Writ of Enquiry within the Term, in which Judgment was obtained: Therefore it is ordered, That where the Plaintiff upon the Plea of the Defendant concludes ad Priam, and shall give Notice upon the Paper-Book of Trial, as aforesaid; and thereupon to impede the Trial, the Defendant shall demur in Law upon the Replication, or to the Plea of the Plaintiff, and the Plaintiff shall join in such Demurrer, and be thereupon shall obtain Judgment; the Attorney for the Defendant shall be obliged to accept of Notice of Executing a Writ of Enquiry of Damages from the Time given of Notice of Trial, on the Paper-Book as aforesaid.

Note, It is said, That the Defendant may, upon his Returning the Book with the Joinder in Demurrer, scratch out the Demurrer and Joinder, and give the Plaintiff his Book with the general Issue, without being obliged to accept of Notice of Trial, from the Time given on the Paper-Book; but the Plaintiff may, to prevent this Delay upon the Defendant's Plea coming in, move the Court that the Defendant may plead *instante* a Plea to stand to, and not wave; draw up the Rule and serve it, and the Defendant will be confined accordingly.

Note,

K.'s Bench. *Note*, That if the Plaintiff refuses to reply, you may have a Four Day's Rule from the Master for that Purpose, which you enter with the Clerk of the Rules, and serve on the Plaintiff's Attorney, and if he does not reply in Time, you sign your *Non pros*'.

Vide several Precedents of *Non pros*' after the Demurrers. And *vide* at the End of the Issues and Demurrers concerning Paper-Books, made up on Demurrers; and on Issues to Part of the Declaration, and Demurrer as to the other Part.

Of Issues.

Non Assump' by one Defendant, and *Non Inform'* by another, the same Term of the Narr'.

ET Pōict A. B. p C. D. Attoꝝd suum veni & defend vim & injur quando, &c. Et idem A. dicit quod ipse Non Assumpit sup se modo & forma put pōict' J. superius versus eum queritur Et de hoc pōid se super Patriam Et pōict' J. scit, &c. Et super hoc pōict' J. pet quod pōict' E. ad Narr suam pō scit respond sup quo idem Attoꝝd pōict' E. dic quod ipse non est infoꝝm p pōict' E. de aliquo respons inde eidem J. in pmiss' dand nec aliquid aliud dic in barram sive pclusionē Actionis ipsius J. pōict' p quod idem J. reman inde versus eundem E. indefens

— Ob quod p̄d J. dampna sua s̄lus p̄fat' K's Bench.
E. occasione non p̄formaçōn p̄missionē & al
sumpçōn p̄d E. p̄d recuperare debeat &c. Sed
quia Cur' dīc' Domini Regis corā ipso Re-
ge incogn' existit q̄ dampna p̄d J. occasione ill'
sustinuit Ideo tam quoad triand' exit' p̄d ini'
p̄fat' J. & p̄d A. supius in forma p̄d junct'
quam quoad inquirend' que dampna p̄d J.
sustinuit tam occasione non p̄formaçōn p̄-
missionē & assumpçōn ill' quam p̄ mis' &
custag' suis p̄ ipsum circa secta sua in hac
parte appōit' ven' inde Jur' corā Domino
Rege apud Westm' (&c. ut in al'.)


*Cogn' Action' pro part' & Nihil debet per
P'riam for the Residue.*

Quando &c. Et quoad 5 l. de p̄d 15 l.
quas p̄d Quer' supius exigit s̄lus eum vir-
tute Wille p̄d idem Def. dīc' qđ ipse non pos-
test dedicere actionem p̄d Quer' nec quin
Villa illa sit factum ipsius Def. nec
quin ipse debeat p̄fat' Quer' easdem 5 l.
modo & forma put idem Quer' superius
versus eum inde Narrabit Ideo cons' est qđ
p̄dīc' Quer' recuperet versus p̄fat' Def. easd'
5 l. Et p̄dīc' Def. in Wīd' &c. Et quoad
p̄dīc' 10 l. de p̄dīc' 15 l. resū quas p̄dīc'
Quer' supius ex compō exigit s̄lus eum idē
Def. dīc' quod ipse non debet p̄fat' Quer'
easdem 10 l. nec aliquem inde denar' modo &
forma (&c.) Et de hoc pon' (&c.) Et quia
conveniēns & necesse est qđ unica fiat taxatio
dampnorum p̄ uno integro debito p̄dīc' si
S conting

K.'s Bench. conting' Judicium de p̄dict' 10l. quas idem
 Quer' supius in com̄po exigit versus p̄fat'
 Def. eidem Quer' reddi Joco cesset taratio
 dampnū ill' quousque p̄dict' p̄lit' de eisdem
 10l. inter partes p̄dict' terminetur, &c. Et
 quoad triand' exit' p̄dict' ven' inde Jur' (ut
 in ap.)

Non Assumpsit to the Second and Third
 Promise, and a Delivery of a Piece
 of Woollen Cloth to the first Promise.

Et quando &c. Et quoad secundam & ter-
 tiam p̄missionem & assumptiōem in Narr' p̄-
 dict' superius content' dic' quod ipse non as-
 sumpsit super se modo & forma p̄ut p̄dict'
 A. B. superius & sus eum queritur Et de hoc
 pōit se sup Patriam Et p̄dictus A. s̄lit' Et
 quoad primam p̄missionem & assumptiōem in
 eadem Narr' superius content' idem C. dic' qd
 p̄dictus A. actionem suam p̄dictam inde
 versus eum habere seu manutenere non debet
 quia dic' quod post Confecōem note & assump-
 tiōem in dic' Narratione primo menconat'
 & ante exhibitiōem bille p̄d' ipsius A. scilicet
 tricesimo die Junii anno Domini millesimo
 septingentesimo vicesimo secundo supradict'
 ipse idem C. debet & deliberabit p̄fat' A. bona
 & catalla videlicet unam peciam Drappi vocat'
 Woollen Cloth, ad valent' decem librarum
 in plenam satisfactionem & exonerationem pri-
 me p̄missionis & assumptiōis p̄dict' Que quidem
 bona & catalla p̄dictus A. adiunc & ibidem in
 plena satisfactione & exoneratione prime pro-
 missionis & assumptiōis p̄d' de eodem C. ha-
 buit & acceptabit Et hoc parat' est verificare

unde petit Iudic' si p̄s A. acconem suam p̄s K's Bench.
inde versus eum habere seu manutenere 
debeat &c.

Repl. Et p̄s A. B. dic' qd ipse p aliqua p
p̄dia' C. D. supius p̄litando allegat' ab
accone sua p̄s quoad primam p̄missionem &
assumpconem in p̄r' p̄s superius content'
versus eum habens p̄cludi non debet quia
p̄testando quod p̄s C. non dedit & deliberabit
p̄fat' A. p̄s bona & catalla vide't p̄s unam
peciam Drappi vocat' Woollen Cloth pro
p̄lito idem A. dic' quod ipse non habuit neq;
recepit p̄dia' bona & catalla modo & forma
put p̄dia' C. supius p̄litando allegavit & hoc
pet' quod inquiretur p̄ Patriam Et p̄dia' C.
silit' &c. p̄s quoad triand' tam erit' iū' quam
p̄dia' al' erit' int' partes p̄dia' superius silit'
junct' ven' inde Jur' (ut in al.)

Non Assumpsit infra sex annos.

Et modo (&c.) Et dic' quod p̄s A. acconem
suam p̄dia' inde versus eum habere seu ma-
nutenere non debet quia dic' quod p̄dia' A.
. die Anno Reg' dia' Doin
Regis nunc Willam suam p̄dia'
versus ipsum C. exhibuit quodq; ipse idem C.
ad aliquod tempus infra sex annos p̄r' ante
diem exhibicon' Bille p̄dia' Non assumpsit
sup se modo & forma put p̄dia' A. superius
inde versus eum narravit Et hoc parat' est
verificare unde pet' Iudicium si p̄dia' A. Ac-
conem suam p̄s inde versus eum habere seu
manutenere debeat, &c.

K.'s Bench: Repl. Et pō' A. dicit quod ipse per alia
 qua per pō C. superius p̄litando allegat' ab
 acōne sua pō inde s̄lus eum habend' p̄cludi
 non debet quia dic' qđ pō C. infra sex annos
 assumpsit super se modo & forma put pō A. su-
 perius s̄lus ipsum C. narrabit Et hoc petit
 quod inquiratur per Patriam Et pō C. s̄lit'
 Ideo veid' inde iur' (sc. ut in aꝛ.)

*Non Assumpsit generally to Part, and Non
 Assumpsit infra sex annos to the other
 Part.*

Et p̄dict' Def. per A. B. Attoꝝ suum
 veid' & defend' vim & injur' quando sc. Et di-
 cit qđ p̄dict' Quer' acōnem suam pō inde
 versus eum habere seu manutenere non debet
 quia dicit quod quoad p̄imam p̄missionē &
 assumpcōē in Parr' pō superius fieri sup-
 pōit' idem Def. dicit quod ipse non assumpsit
 super se modo & forma put pō Quer' supe-
 rius s̄lus eum queritur Et de hoc ponit se
 * This when super P'riam * Et pō Quer' inde s̄lit' sc.
 Issue joined. Et quoad resid' p̄missionē & assumpcōē in
 Parr' pō superius fieri suppōit' idem Def. di-
 cit qđ ipse pō Quer' ad aliquod tempus infra
 sex annos p̄or' ante diem exhibicōē bille
 pō Quer' pō non assumpsit super se modo &
 forma put pō Quer' superius inde versus
 eum queritur Et hoc parat' est verificare un-
 de, (sc. ut in aꝛ.)

Plene Administravit.

Et modo (sc.) (acōnem non sc.) quia
 dic' quod ipse tempore exhibicōē Wille pō
 Plene

Plene administravit omnia bona & catalla q̄ K.'s Bench.
 fuer' p̄d J. tempore mortis sue in manibus
 suis administrand per q̄d p̄d C. de hum suum
 p̄d p̄fat' A. solvere non potuit Et hoc parat'
 est verificare unde, (et.)

Repl. Et p̄d A. (p̄cludi non, et.) quia
 dic' q̄d p̄d C. habet & tempore exhibicōd
 Bille p̄d videt' (cui die & anno) apud, (et.)
 habuit diversa bona & catalla que fuer' p̄d J.
 [Testatoris] tempore mortis sue in manis
 suis administrand ad valenc', (et.) unde
 dem A. de debito p̄d satisfacere potuit vi
 delicet apud S. in Corā p̄d Et hoc petit
 quod inquiretur p̄ Patriam Et p̄d C. s̄tit',
 et. Ideo ven' et.

Non dimisit.

Et modo (et.) Et idem C. defend' vim &
 injur' quando, et. & dicit quod p̄d A. non
 dimisit eidem C. Meluagium sive tenemen
 tum p̄d & cetera p̄missa cum p̄iud modo &
 forma put p̄d A. superius versus eum que
 ritur Et de hoc pon' se super Patriam Et
 p̄d A. s̄tit', et. Id' ven' inde Jur' (et.)

Non detinet per Patriam.

Et modo (et.) Et idem C. defend' vim &
 injur' quando, et. Et dic' quod ipse non de
 tinet p̄fat' A. bona & catalla p̄dict' in
 S 3 Parr

K.'s Bench. Part' pō specificat' nec aliquam inde parcel-
 lam modo & forma put pō A. superius
 illud eum queritur Et de hoc pōd se super
 Priam Et pō A. sicut &c. pō (&c.)

Comperuit ad diem to a Bail-Bond.

Et modo (&c.) Defend' vim & injur' quan-
 do &c. Et per' auditum Scripti Obligato-
 ri pō Et ei legitur &c. per' etiam auditum
 Condition' ejusdem Scripti Et ei legitur in
 hec verba, scilicet, (the Condition, &c. set-
 ting forth the whole Condition; also he
 may set forth the Obligation if it be to
 his Advantage) Quibus lectis & auditis idē
 C. dic' quod pō A. Action' suam pō inde
 versus cum habere seu manutenere non de-
 bet quia dic' quod post Conseccon' Scripti
 Obligatori pō & ante diem exhibicon' Bil-
 le pō ipse A. scilicet die, (&c. compa-
 rene) p' sequen' post dat' Script' Obliga-
 torii pō pō C. comperuit coram dia' Domi-
 no Rege nunc ad respons' p'fat' A. in plas-
 cito debiti pō secundum formam & effectum
 Condition' Script' Obligatori pō Et hoc pa-
 rat est verificare p' Recoꝝ Ballii inde in Cur-
 dict' Domini Regis nunc coram ipso Rege
 apud Westm' pō remanen' unde per' Judic'
 si pō A. action' (&c.)

Aliter in Transgr'.

(Action' non) quia dic' quod ipse compe-
 ruit coram Domino Rege apud Westm' pō
 pōia'

poia' die (sc.) ad respondend' p'fat' A. in K.'s Bench.
 Condiçion' p's supius nominat' de p's p'tico
 transgr' secundum formam & effectum Con-
 dic' ill' cuius quidem C. comparenc' dici'
 Cur' dici' Dom' Regis coram ipso Rege
 apud Westm' adtunc & ibidem recordabatur
 put' p' Record' inde in eade' Cur' ipsius Do-
 mini Regis coram ipso Rege apud Westm'
 p's residend' liquet manifeste Et hoc parat'
 est verificare p' Record' ill' unde (si accion'
 (sc.)

Repl. (Precludi non) quia dic' quod non
 h'et' tale Recordum Comparenc' p's C. fac'
 coram dici' Domino Rege apud Westm' p's
 die (sc.) in eadem Curia dici' Domini
 Regis coram ipso Domino Rege apud West-
 monasterium p's remanend' qual' ipse p's C.
 supius allegabit Et hoc (sc.) unde pet' Ju-
 dicium & debitum suum [if in Debt] una-
 cum dampnis suis ocçione decençion' debiti
 ill' sibi adjudicari, &c.

Repl. In Trespass and Case. Unde pet'
 Iudicium & dampna sua ocçione transgr' p's
 (or ocçione p'p'miss') sibi adjudicari, &c.

Rejoinder. Et p's C. dic' quod h'et' tale
 Record' comparenc' ipsius C. fac' coram ipso
 Domino Rege apud Westm' p's die (sc.)
 in p's Cur' dic' Domini Regis coram ipso
 Rege apud Westm' p's reman' qual' ipse su-
 pius allegavit Et hoc parat' est verificare p'
 Record' ill', &c. Ideo p'cept' est eidem C.

K.'s Bench. quod habeat hic (tali die) Recordum ill' sub
 suo piculo, &c.

Vide 4 Inst.

Clericalis 287.

Hansard's

Ent. 115.

Conditions performed to a Bond:

Et modo, (&c.) Et pet', (&c.) Quibus
 lectis, (&c.) Action' non) quia dic' quod ipse
 idem C. in & sup' primum diem Maii in
 Conditione p'd superius spec' solvit p'fat'
 A. p'd 20 l. in eadem Conditione superius
 mentionat' quas ei ad eundem diem solvisse
 debuit secundum formam & effectum dict'
 Condition' videlicet apud (&c.) Et hoc pa-
 rat' est verificare unde pet' (&c.)

Quer' (p'cludi non) Quia dic' quod p'ed
 C. sup' p'dict' primum diem Maii superius
 mentionat' non solvit p'fat' A. 20 l. p'dict'
 in Condition' p'ed superius mentionat' se-
 cund' formam & effectum Condition' p'ed
 modo & forma p'ut p'ed C. superius placi-
 tando allegabit Et hoc pet' quod inquirat'
 p' Priam Et p'ed A. filit' Ideo veni (&c.)

Infra Etat.

Et modo (&c.) (Action' non) quia dic' q'd
 ipse idem C. tempore confection' Script' obl'
 p'ed fuit infra etatem viginti & un' annos-
 rum [viz. Etat' 17 annorum & non ampli-
 us] Et hoc (&c.) unde (&c.)

Repl. Quer' (p'cludi non) quia dic' q'd
 p'ed C. tempore confection' Script' obliga-
 toxi

totii p̄d fuit plen̄ erat' viginti & unū an- K.'s Bench.
noꝝ modo & foꝝd put p̄d C. superius
p̄litand allegabit Et hoc p̄t quod inquirat
p̄ Priam Et p̄d C. similiter, &c. Ideo (&c.)

Or thus, *Infra Ætat.*

Et modo (&c.) (Accoꝝd non) quia dic' qđ
ipse idem C. tempore confectioꝝd separať p̄-
miſcoꝝd & assumptioꝝd in Parr' p̄d superius
mentionat' fuit infra etatem viginti & unius
annoꝝum Et hoc (&c.) unde (&c.)

Per Dures.

Et modo (&c.) Et dic' quod ipse de debito
p̄d virtute Scripť p̄d onerari non debet quia
dic' quod ipse tempore confectioꝝd Scripti
p̄d fuit imp̄sonat' p̄ p̄d A. & ap̄ de covina
sua videť apud B. in Com̄ p̄d & ibidem in
p̄sona detent' quousque id' C. p̄ vim & du-
ritiam imp̄sonamenti ill' script' illud p̄fat'
A. adtunc & ibidem fecit sigillavit & ut fac-
tum suum eidem A. deliberabit Et hoc (&c.)
unde p̄t Judic' si ipse de debito p̄d virtute
Script' obl' p̄d onerari debeat, &c.

Repl. (Precludi non) quia dic' qđ p̄d C.
tempore confectioꝝd scripti p̄d fuit sui juris
ad largum & extra quamlibet p̄sonam &
scripť illud ex mera & spontanea voluntate
sua eidem A. fecit sigillavit & ut factum
suum deliberabit & non p̄ vim & duritiam
imp̄i-

K.'s Bench. imprisonment prout p^o C. superius placitando allegavit Et hoc pet quod inquiretur per Patriam Et p^oia' C. silit, &c. Ideo (&c.)

Per Minas.

Quando &c. (Action non) quia dic quod p^o A. tempore confectioⁿ script ob^o p^oia' eidem C. tales & tant minas de vita sua & mutilation^e membrorum suorum sibi inferend nisi ipse script p^oia' p^oiat' quee facere & sigillare veller apud E. p^oia' imposuit quod idem C. Scriptum p^oia' ob metum minarum ill' p^oiat' A. adtunc & ibidem fecit Et hoc (&c.) unde (&c.)

Repl. (Precludi non) quia dic quod p^o C. tempore confectioⁿ script p^o fuit sui iuris ad largum & script illud ex mera & spontanea voluntat' sua eidem A. adtunc & ibidem fec' & non ob metum minar' put p^o C. superius placitando allegavit Et hoc pet quod inquiretur p Patriam, &c.

Son Assault Demesne.

Et modo (&c.) Defend vim & insuriam quando, &c. Et quoad venire vi & armis seu quicquid quod est contra pacem dic' Domini Regis nunc dicit quod ipse non est inde culpabilis Et de hoc pon se sup Patriam Et p^o A. silit, &c. Et quoad resist transgr' p^o superius fieri supposit idem C. dic' qd p^oia'

poia' A. Actionem suam poia' inde versus K.'s Bench. eum habere seu manutenere non debet quia dic' qd' p'd A. die & anno suprad' in Parr' p'd A. superius specificat apud E. p'd in Comd p'd vi & armis in ipsid' C. insult' fecit & ipsum C. adtunc & ibidem verberasse vulnerasse & maltractasse voluisset nisi idem C. seipsum erga p'fat' A. adtunc & ibidem citius defendisset Et sic idem C. dic' quod malum vel dampnum si quod eidem A. adtunc & ibidem evenit hoc fuit de insult' ipsius A. ppz' Et in defensione ipsius C. Et hoc, (tc.) unde, (tc.)

Repl. Et poia' A. dic' quod ipse (p'clusi non, tc.) quia dic' quod p'd C. de injuria sua ppz' & absq' tali causa p' ipsum C. supius placitando allegat' in ipsum A. insult' fecit & ipsum A. verberavit vulneravit & maltract' modo & fornd' put p'd A. supius & sus eid' quer' Et hoc per' (tc.) Ideo veni (tc.)

Non culp' by C. quoad tot' transg' & insult', Non culp' by the Wife of C. quoad vi & armis, &c. and son assault' demesne by the Wife quoad tot' resid' transgr' & insult'.

— These Pleas were pleaded to a Declaration brought against C. and Anne his Wife, for a Trespass and Assault committed by them on the Wife of A.

Et p'd C. & Anna p' W. N. Attorid' suid' Non Culp' veni & defend' vim & injur' quando, tc. Et & son assault quoad tot' transgr' & insult' p' ipsum C. in demesne. narr' p'd supius fieri suppōit idem C. dic' quod ipse non est inde culpabilis & de hoc poia'

K's Bench' pōd se sup Patriam Et pō A. & Sara inde
 sitit' Et quoad venire vi & armis seu quicquid
 quod est contra pacem dicti Domini Regis
 nunc p ipsam Annam in Part' pō supius
 fieri suppōit' Idem C. & Anna dic' quod eadē
 Anna non est inde culpabil' & de hoc pōd se
 sup Patriam Et pō A. & Sara inde sitit'
 Et quoad tot' resis transgre & insult' p ipsam
 Annam in Part' pō supius fieri suppōit'
 Idem C. & Anna dic' quod pō A. &
 Sara actionē suam pō inde vers' eos habere
 seu manutenere non debent quia dic' quod
 pō Sara die & anno in Part' pō supius
 mentionat' apud Paroch pō in Com' pōd'
 in ipsam Annam insult' fec' & ipsam Ann'
 adtunc & ibidem verberasse vulnerasse & males-
 tractasse voluit p quod ipsa eadem Anna ses
 ipsam erga eandem Saram adtunc & ibidem
 defendebat put ei bene licuit Et sic idem C.
 & Anna dic' quod si aliquod dampnum vel
 malum eidem Sare adtunc & ibidem accrevit
 hoc fuit de insult' ipsius Sare ppz' & in
 defensionē ipsius Anne & hoc idem C. &
 Anna parat' sunt verificare unde per'
 Iudicium si pō A. & Sara actionē suam pō
 inde vers' eos habere seu manutenere de-
 beant, &c.

Repl. Et pō A. & Sara quoad tot' resis trans-
 gress' & insult' p ipsam Annam in Narratio-
 ne pō supius fieri suppōit' dic' quod ipsi
 p aliqua p eisdem C. & Annam supius in ea
 Parte placitand' pallegat' ab actione sua pō
 inde vers' eos habend' pcludi non debent
 quia dicunt quod pō Anna de injuria sua
 ppzia & absq' tali causa p ipsos C. & Annam
 supius in ea Parte ptitand' allegat' in ipsam
 Saram

Saram insultū fecit & ipsam Saram verbera- K.'s Bench.
vit vulneravit & maletractavit modo & forma
put pō A. & Sara superius versus eisdem C.
& Annam queruntur Et hoc pēt quod inqui-
ratur p Patriam Et pō C. & Anna sili-
et. Ideo quoad tam (et.) veni inde jur' (ut
in al.)

Non damnificatus pleaded to a Counter-
Bond.

Et modo (et.) Defend vini & injuriam
quando, et. Et pēt auditum scriptū obl' pō
dic' Et ei legitur, et. pēt etiam audit
Conditionē ejusdem scriptū Et ei legitur in
hec verba (The Condition, et.) Quibus
lectis & auditis idem C. dic' quod pōit' A.
nunquam fuit damnificat' occasione pō scriptū
obl' Et hoc (et.) unde (et.)

Aliter. Quibus lectis & auditis idem C.
dic' quod ipse idem C. tempore confessionis
scriptū obl' pōit' hucusque salvavisset & in-
dempnū conservasset & indemnificavisset pō
A. ab omnibus turbationibus (Anglice
Troubles) sect' inconvenient' dampnis &
molestationibus occasione scriptū obligatozū
pō (or otherwise against such and such
Persons or Things as in the Condition ex-
pressed) Et hoc (et.) unde (et.)

(Quer) pcludi non debet quia dic' quod
pō C. sup diem (et.) superius mentionat
non solvit (et.)

Or otherwise shews how he was dam-
nified, or that the First Obligee minas-
batur & conabatur arrestare ipsum (Quer) p
denariis p quod (Quer) illos ei solvit Et sic
dampnificat (et.) [as the Case requires.]



Ne unques Receptor.

Et modo (sc.) vim & insur quando, sc. & dicit quod ipse nunquam fuit Receptor denar. A. B. p manus pō C. D. ad computand ins de eidem A. B. cum inde requisit fuisset reddend in forma qua idem A. B. superius illis eum narrabit Et de hoc pon se in patriam Et pō A. B. sicut Ideo (sc.)

Ne unques Executor.

Et modo (sc.) Action non) quia dicit quod ipse idem C. nunquam fuit Executor Testamenti pōit J. S. nup defunct' nec aliqua bona sive Catalla ipsius J. ut Executor Testamenti ejusdem unquam administravit Et hoc (sc.) unde (sc.)

Repl. (Precludi non) quia dicit qd' pō C. divers' bona & Catalla que fuer' dict' J. S. tempore mortis sue post mortem ipsius J. ut Executor Testamenti ejusdem J. videlicet apud R. in Com' pōit administravit Et hec pet quod inquirat p patriam Et pō C. simil' sc. Ideo ven' (sc.)

Ne unques Administrator.

(Action non) quia dicit quod Administratio bon' & Catallorum pō que fuer' pō J. tempore mortis sue eidem C. p prefat Archiepiscopum Cant' nunquam comissa fuit Et hoc (sc.) unde (sc.)

Repl.

Repl' ad ne unques Administrator.

(Precludi non) quia dic' quod Administratio omnium & singulorum Bonorum & Cotaliorum que fuer' dict' J. S. tempore mortis sue p' p'dict' Archiepisc' Cant' apud L. p'fat' C. Commissa fuit put ipse p' Pat' suam p'dict' sup'ius supponit Et hoc petit, &c.

Rians per Discent pleaded by an Heir.

Et modo, (&c.) defend' vim & insur' quando, &c. dic' quod ipse de debito p'dict' ut filius & heres p'dict' J. S. Gen' Patris sui onerari non debet quia protestando quod scriptum p'dict' non est factum p'dict' J. p' p'ito dicit qd ipse non habet aliqua terras seu tenementa p' discens' heres de p'dict' J. S. p'dict' Patre suo in feodo simplici nec habuit die exhibitionis Will' p'dict' nec unquam postea Et hoc parat' est verificare unde pet' Iudicium si de de'ho p'dict' ut fil' & heres p'dict' J. S. Patris sui virtute scripti p'dict' onerari debeat, &c.

Repl. Quer' (Precludi non) quia dic' quod die exhibitionis Wille ipsius A. p'dict' scilicet (tali die & anno) p'dict' C. habuit terras & tenementa sufficien' p' descensum hereditat' de p'dict' J. Patre suo in feodo simplici unde eidem A. satisfecisse potuit videlicet apud R. in Com' L. Et hoc petit quod inquiret' p' Patriam Et p'dict' C. similiter ideo vend' inde

K.'s Bench. Jur' coram Domino Rege apud Westmonast' die pr' post Et qui nec, &c. ad recognid, &c. quia tam, &c. idem dies dat' est partibus poia' ibidem, &c.

Several Mat-
ters may be
pleaded.

It is enacted by the Stat. of 4 & 5 Anna, cap. 16. *That any Defendant or Tenant in any Action or Suit; or any Plaintiff in Replevin, in any Court of Record, may, with Leave of the same Court, plead as many several Matters thereto, as he shall think necessary for his Defence.*

Costs for In-
sufficiency
on a Demur-
rer.

Provided nevertheless, *That if any such Matter shall on a Demurrer joined, be judged insufficient; Costs shall be given at the Discretion of the Court; or if a Verdict be found upon any Issue in the said Cause, for the Plaintiff or Demandant; Costs shall also be given in like Manner, unless the Judge, who tried the said Issue, shall certifie, that the said Defendant, or Tenants, or Plaintiff in Replevin had a probable Cause to plead such Matter, which upon the Issue shall be found against him.*

Replication

must not dif-
fer from the
Count.

The Replication is the Plaintiff's Answer to the Defendant's Plea, and great Care must be taken, lest the Replication differ or vary from the Count, and that it also maintain the Cause of the Plaintiff's Action; for if it appear by the Replication, that the Plaintiff had no Cause of Action, there he shall not have Judgment, although the Defendant's Plea or Bar be insufficient in Matter.

And

And if it differs or varies from the K.'s Bench-Count, and makes not good the same, it is called a Departure in pleading, which is not sufferable.

Also when the Replication doth neither confess and avoid, nor traverse the Matter of the Bar, it is naught, and the Defendant may demur to it, and shew this for Cause.

The next which follows the Replica-Rejoinder. tion is a Rejoinder, and is where the Defendant makes Answer to the Plaintiff's Replication, and it ought to be a sufficient Answer, and must enforce the Plea or Bar.

And the next follows a Surrejoinder, or a Second Defence of the Plaintiff's Action, opposite to the Defendant's Rejoinder.

And every one of these must be a sufficient Answer to the Matter objected by the adverse Party, and follow and enforce the Matter offered by him, that did plead before.

And as the Replication must not differ from the Count, so neither must the Rejoinder from the Bar.

Sometimes (tho' very rarely) the Parties go so far in Pleading, that it comes to a Rebutter and Surrebutter, before any Issue or Demurrer; and thereto a Demurrer and Joinder in Demurrer.

Note, Where the Defendant pleads a sham Plea in Bar and afterwards demurs to the Plaintiff's Replication: If there are any material Mistakes in the Decla-

K.'s Bench. ration, the Plaintiff will fail in his Action, the Fault appearing first on his Side.

It is the same, where the Plaintiff demurs to a bad Plea of the Defendant, for though the Plea is ill, yet if the Declaration be faulty, the Plaintiff must likewise fail in his Action.

Where the Declaration is good, and there is a Fault in the Defendant's Plea, though the Plaintiff has joined Issue upon it, which is found against him, yet the Plaintiff shall have Judgment upon his good Declaration.

Cro. Car. 25.

After a Trial and Verdict, the *Postea* must be continued on the Roll after this Manner.

In Case.

Postea continued.

Postea continuatur inde Processus inter partes p[ro]dict[us] de placito p[ro]dict[us] p[er] Jur[em] posit[us] inde inter eas in respectum coram Domino Rege apud Westm[onasterium] usque diem Mercurii p[ro]p[ter] post tres septimanas Sancti Mich[aelis] erunt p[ro]p[ter] sequen[tem] nisi Justic[ia] dict[us] Domini Regis ad Alias in Com[mun]i p[ro]dict[us] capiend[us] Assign[us] p[ri]us die Lune quinto die Augusti apud Civit[atem] Willelm[um] in Com[mun]i p[ro]dict[us] p[er] forma[m] Statut[us] ven[ire] p[er] defectu[m] jur[is], &c. Ad quem diem coram Domino Rege apud Westm[onasterium] ven[ire] p[ro]dict[us] A. p[er] Attor[um] suum p[ro]dict[us] Et p[re]stat Justic[ia] Domini Regis ad Alias coram quo, &c. mis[er] hic Recordum suum coram eo hic in hec

hec verba, ff. Postea die & loco infra con- K.'s Bench.
tent, &c. [as on the Postea to the End] ~~~~~
Ideo consideratum est quod p̄dict' A. recuper The Judg-
versus p̄fat' C. dampna sua p̄dict' ad 100 l. pment in Case
Iur' p̄dict' in forma p̄dict' assessor' nec non 5 l. against De-
eidem A. ad requisitionem suam p̄ miss' & custag' fendant.
suis p̄dict' p̄ Cur' hic de incremento adjudicat
que quidem dampna in toto se atting' ad
105 l. Et p̄dict' C. in mia, &c.

Judgment in Debt against Defendant.

Ideo cons' est quod p̄d A. recuperet versus
p̄fat' C. debitum suum p̄dict' ac dampna p̄dict'
p̄ Iur' p̄dict' in forma p̄dict' assessor' neron
4 l. p̄ miss' & custag' suis p̄dict' eidem A. per
Cur' dict' Domini Regis nunc hic ex assensu
suo de incremento adjud' que quidem dampna
in toto atting' ad 50 l. Et p̄d C. capiatur, &c.

If Satisfaction be hereupon acknowledged,
you enter thus.

Postea scilicet die pr' post
. Anno Regni Domini Georgii
nunc Regis Pagne Britannie, &c. coram
Domino Rege apud Westm' ven' p̄d A. per
J. S. Attozū suum p̄ Cur' dict' Domini Re-
gis nunc hic specialit' constitut' & cogn' se
esse satisfact' p̄ p̄dict' C. de debito & dampnis
p̄dict' Ideo idem C. de debito & dampn' p̄dict'
sit inde quiet', &c.

K.'s Bench.

If Judgment be against the Plaintiff,
then thus:

Judgment against the Plaintiff.

Ideo conx^r est quod p^dict' H. nil capiat p^r
William suam s^usus p^rfat C. sed quod ipse &
p^rleg' sui de p^rox' scilicet J. Doe & R. Roe
sint in mⁱid, &c. Et p^rfat C. eat inde sine
die, &c. Et ulterius conx^r est quod p^dict' C.
recupet versus p^rfat A. 6 l. 10 s. p^r mix &
custag' suis p^r ipsum circa defension^m suam in
hac parte sustent eidem C. p^r Cur' dicti Do-
mini Regis nunc hic ex assensu suo juxta
formam Statuti in hujusmodi casu nuper
edit & p^rvis^r adjudicat Et p^dict' C. habeat
inde executionem, &c.

See before amongst the *Posteas*.

Note, That on Paper-Books and De-
murrers the Plaintiff must deliver the
Book with a Rule on the Side, that the
Defendant's Attorney must return it at the
Day, or else Judgment; that after return-
ed, it must be engrossed on a Roll carried
into Court, and Counsel move to make it
a Record; then the Rule drawn up and
Cause set down for a *Concilium*, then Books
made for the Judges 2 s. to each of their
Clerks, then to be argued by Counsel,
&c. See after Issues and Demurrers, and
amongst the Special Notes, Tit. *Demurrers*.
Of

Of Demurrers.

A General Demurrer to a Declaration.

ET modo ad hunc diem scilicet diem Per-
curii pr' post tres Septimanas Sancti
Michaelis isto eodem Termino usque quem
diem p'dict C. habuit licenc' ad billa p'dict
interloquens & tunc ad respond, &c. coram
Domino Rege apud Westm' veni tam p'dict
A. p Attozū suū p'dict' quam p'dict' C. p
J. S. Attozū suū Et idem C. defend'
bim & insur' quando, &c. Et pet' Judic de
Par p's quia dic' quod Par p'dict' materiaq
in eadem content' minus sufficien' in lege
existunt ad actionem ipsius A. versus ipsū
C. habend' manutenend' ad quā idē C.
necesse non habet nec p legem terre tes
net' aliquo modo respondere Et hoc parat' est
verificare Unde p defectu sufficien' Par in
hac parte idem C. pet' Iudicium de Par ille
Et quod Par ille cassetur, &c.

The Plaintiff joins in Demurrer.

Et p'dict' A. dicit quod p aliqua Ballegat
Par ipsius A. p'dict' cassari mēd' debet quia
dicit quod Par p'dict' materiaque in eadem
content' bon' & sufficien' in lege existunt ad
p's actionē ipsius A. versus ipsū C. manute-

K's Bench. nend quam quidem Par materiamque in eas
 content idem A. parat est verificare ac pbare
 put Cur, &c. Et quia pda' C. ad Par ill
 non respond nec ill hucusque aliqualit deduc
 idem A. pet Iudicium & dampna sua ocione
 * pmiss. sibi adjudicari, &c.

Or thus in Debt.

* ——— petit iudicium & debitum suum
 pda' unacum dampnis suis ocione detencion
 debi ill sibi adjudicari.

In Trespass.

——— pet Iudicium & dampna sua oc
 one Transgr pda' sibi adjudicari.

In Assault.

——— pet iudicium & dampna sua oc
 one Transgreis & insult pda' sibi ad
 judicari.

Demurrer to a Plea in Bar by the
 Plaintiff.

Et pda' A. dic quod ipse p aliqua p pda' C.
 modo & forma pda' supius plicando alle
 gat ab actione sua pda' inde versus ipsum C.
 habens

habendū p̄cludi non debet quia dic̄ quod p̄litū K.'s Bench-
p̄dict materiaque in eodem content̄ minus
sufficiendū in lege existunt ad ipsum A. ab ac-
tione sua p̄dict inde versus ipsum C. habendū
p̄cludendū ad quod quidem p̄litum idem A.
necesse non habet nec p̄ legem terre tenetur
aliquo modo respondere Et hoc parat' est ve-
rificare unde p̄ defectu sufficiendū p̄lit in hac
parte idem A. pet̄ iudicium & dampna sua oc-
cōne p̄miss. sibi adjudicari, &c.

In Trespass.

——petit iudicium & dampna sua oc̄cōne
Transgress̄ p̄dict' sibi adjudicari.

——oc̄cōne T̄nlsgr̄ & insult̄ p̄d, &c.

In Debt.

——petit iudicium & debitū suū p̄dict'
unacum dampnis suis oc̄cōne detencōid̄ debi-
tū sibi adjudicari, &c.

In Covenant.

——oc̄cōne fracōid̄ Convenc̄ p̄d, &c.

Defendant



Defendant joins in Demurrer.

Et p̄dict C. dicit quod placitum p̄dict p̄ ipsum C. modo & forma p̄dict sup̄ius placitat̄ materiaque in eodem content̄ bonū & sufficiens in lege existunt ad ipsum A. ab ac̄tione sua p̄dict inde versus ipsum C. habendū p̄cludendū quod quidem placitum materiaque in eodem content̄ ipse idem C. parat̄ est verificare & p̄bare p̄t Cur, &c. Et quia p̄dict A. ad placitum illud non respond̄ nec illud hucusque aliqualit̄ dedic̄ idem C. ut p̄ius p̄t Iudiciū Et quod p̄dict A. ab ac̄tione sua p̄dict inde versus ipsum C. habendū p̄cludatur, (&c.)

Demurrer by the Defendant to the Plaintiff's Replication.

Et p̄dict D. dicit quod placitum p̄dict per ipsum G. modo & forma p̄dict sup̄ius repl̄icandū placitat̄ materiaque in eodem content̄ minus sufficiens in lege existunt ad ipsum G. ad actionem suam p̄dict inde versus ipsum D. habendū manutenendū ad quod idem D. necesse non habet nec p̄ legem terre tenetur aliquo modo respondere Et hoc parat̄ est verificare unde p̄ defectu sufficiens Replicatiō in hac parte idem D. ut p̄ius p̄t Iudiciū Et quod p̄dict G. ab ac̄tione sua p̄dict inde versus ipsum D. habendū p̄cludatur, &c.

Plaintiff

Plaintiff rejoins.

Et p̄dict' G. dicit quod placitum p̄dict' per
ipsum G. modo & forma p̄dict' sup̄ius repli-
cando p̄litat' materiaque in eodem content'
bon' & sufficien' in lege existunt ad ipsum G.
ad actionem ipsius G. p̄dict' inde versus ipsum
D. hēnd' manutenend' qđ quid placitum mate-
riamque in eodem content' idem G. parat' est
verificare & p̄bare p̄ut Cur, &c. Et quia
p̄d' D. ad placitum ill' non respond' nec
ill' hucusque aliqualit' dedic' idem G. ut prius
pet' judic' & debitum suum p̄dict' unacum
dampnis suis occasion' detencōn' debiti ill'
sibi adjudicari, &c.

Demurrer to a Rejoinder by the Plaintiff.

Et p̄dict' J. B. dic' quod p̄litum p̄dict' per
p̄dict' R. F. modo & forma p̄dict' sup̄ius re-
surgendo p̄litat' materiaq; in eodem content'
minus sufficien' in lege existunt, (&c.) [as it
is in the Demurrer to the Defendant's
Plea, changing the Word Placitum for
Resurgatio, and concludes like it.]

Also the Defendant's Joinder to this is
as his Joinder to a Demurrer upon his
Plea, changing placitando to Resurgendo,
and concludes like it.

And

K.'s Bench: And if the Demurrer be by the Defendant to the Plaintiff's Surrejoinder, it is like his Demurrer to the Plaintiff's Replication, using the Word *Surrejungendo* instead of *Replicando*, &c.

See the Third Part of *Instructor Clericalis*. Tit. *Demurrer*; and see also the *Doctrine of Demurrers*.

And you are to observe, That when you enter a Demurrer upon the Roll, you enter it as other Rolls, to the End of Joinder in Demurrer: And then immediately follows the Continuance.

Demurrer continued.

Sed quia Cur' dict' Domini Regis nunc hic de iudicio suo de & sup' pmissis reddend' nondum advisatur dies inde dat' est partibus p'dict' coram Domino Rege apud Westm' usque diem pr' post de iudicio suo de & sup' pmissis audiend' eo quod Cur' Domini Regis nunc hic inde nondum, &c.

And if it be continued to a further Day, you add:

Further Continuance.

Ad quem diem coram Domino Rege apud Westm' ven' partes p'dict' p' Actorum suos p'd' Et quia Cur' die Domini Regis hic de iudicio suo de & sup' pmissis reddend' nondum advisatur dies inde ulterius dat' est partibus p'd' coram Domino Rege, &c. (as before.)

And

And if the Judgment be then given,
you say;

Ad quem diem coram Domino Rege apud Judgment
Westm ven partes p̄dict p̄ Attorn suos p̄d for the
sup quo visis & p̄ Cur Domini Regis nunc Plaintiff on
hic diligēt inspectis (or, nunc hic plenius Demurrer to
intellectis) omnibus & singulis p̄missis matu- his Declara-
ragz deliberatione inde habita * p̄ eo quod vi- tion.
detur Cur Domini Regis nunc hic quod
Parr p̄d ipsius A. materiaque in eadem con-
tent bon & sufficiend in lege existunt ad p̄d
accōd ipsius A. versus ipsum C. habend ma-
nutenend Ideo cons est quod p̄dict A. recu-
pet versus p̄fat C. debum suum p̄dict nec-
non & l. p̄ dampnis suis que sustinuit tam
occone detēcon debi ill quam p̄ mis &
custag' suis p̄ ipsum circa sectam suam in hac
parte appōit eidem A. p̄ Cur dic Dom Re-
gis nunc hic ex assensu suo adjudicat Et p̄d
dict C. in Quid, &c.

The Entry is much the like, if it be
for the Plaintiff, upon his Replication or
Sur-rejoinder in Debt, only changing the
Word Parr to Replie, &c.

* And if it be given against the Defen-
dant, upon the Plaintiff's Demurrer to his
Plea in Debt, 'tis much the like as p̄ eo
quod videtur; Or, Quia videtur Cur Dom
Regis nunc hic quod placitum p̄dict p̄ p̄dict
T. modo & forma p̄dict supius p̄ticit matia-
que

K.'s Bench. *que in eodem content minus sufficient in lege existunt ad p̄dict A. ab actione sua p̄ inde versus p̄fat C. habend p̄cludend Ideo cons̄,* (et.)

The like upon his insufficient Rejoinder.

But where Judgment is thus given on the Behalf of the Plaintiff in Case, where a Writ of *Inquiry of Damages* is awarded; Then after the Words *habend manutenend*, or *habend p̄cludend*, you say,

Writ of Inquiry.

Cons̄ est quod p̄dict A. dampna sua s̄lus p̄fat C. occasione p̄mis̄ recuperare debeat sed quia Cur die Domini Regis nunc hic incogit existit que dampna, (et.) And so award a Writ of *Inquiry*, as it is before in Case, with the Entry of the Sheriff's Inquisition and Judgment thereon, as is before observed in the Entry of Judgment upon a Writ of *Inquiry*.

If the Judgment upon Demurrer go for the Defendant against the Plaintiff, upon the *Plar*, the Entry is as before, usq̄,

Judic' versus Quer'.

— *Pro eo quod videtur (or quia videtur) Cur Domini Regis nunc hic qd Par p̄dict materiāq̄ in eadem content minus sufficient in lege existunt ad actionem p̄dict A. s̄lus p̄fat C. habend manutenend Ideo cons̄ est quod p̄dict A. nihil capiat p̄ William suū p̄dict sed p̄ falso clamore suo inde sit in p̄iā Et p̄dict C. eat inde sine die, et.*

Aliter

Aliter upon Plea.

—— Pro eo quod videtur Cur' dict' Domini Regis nunc hic quod placitum p'dict' p ipsum C. modo & forma p'dict' lupius p'licat materiaq; in eodem content boni & sufficienti in lege existunt ad p'dict' A. ab actione sua p'dict' versus ipsum C. habend' p'cludend' Ideo constat est quod p'dict' A. nil capiat p Bill' suam p'dict' sed p falso clamore suo inde sit in mia Et p'dict' C. eat inde sine die, &c.

Aliter.

Ideo constat est quod p'dict' A. nil capiat p Bill' suam Et quod ipse & pleg' sui de p'rog' scilicet J. Doe & R. Roe sint in mia p falso clamore suo Et p'dict' C. eat inde sine die, &c.

If you shew Causes of Demurrer, then you may say as before to *Respondere*; and then add,

—— Et p Causis morationis in lege sup Parr' p'dict' idem C. secundum formam Statuti in huiusmodi casu nup edit & p'bis ostendit & Cur' hic demonstrat has causas subsequend' (vide It.)

* Quod non apparet p Parr' p'dict' quod est aliquod memorand' aut p'miss' (in Parr' p'dict' specificat) in script' signat p ipsum A.

aut

* Such Causes as the Case requires.

K.'s Bench. aut aliquam at ploid p ipsum A. legalit at
 ~~~~~ chorizat put debuit secundum formam Sta-  
*Vide 7 Inst.* tut in hujusmodi casu nup edit & pdis & qd  
*Cler.* Narr pdict est intert insufficien & caret  
 forma, &c.

Or you may put the Causes at last af-  
 ter the Words pcludatur, &c.

*Note,* You may amend your Declara-  
 tion before Joinder in Demurrer, up-  
 on Payment of Costs.

*Stat. 4 & 5* By the Statute for Amendment of the  
*Anna, cap.* Law, It is enacted, *That where any Demur-*  
 on Demur- *rer shall be joined and entred in any Action or*  
 rer joined, *any Suit, in any Court of Record; the Judges*  
 Judges to *shall proceed and give Judgment according as*  
 proceed *the very Right of the Cause, and Matter in*  
 without re- *Law, shall appear unto them; without regard-*  
 garding any *ing any Imperfection, Omission or Defect, in*  
 Defect, &c. *any Writ, Return, Complaint, Declaration or other*  
 except such *Pleading Process, or Course of Proceeding what-*  
 as be special- *soever; except those only, which the Party de-*  
 ly set down, *murring shall specially and particularly set*  
 as Causes of *down, and express together with his Demurrer,*  
 Demurrer. *as Causes of the same; notwithstanding that*  
*such Imperfection, Omission or Defect might*  
*heretofore been taken, to be Matter of Sub-*  
*stance, and not aided by the Statute 27 El.*  
*(cap. 5.) Entitled an Act for the Further-*  
*ance of Justice in Case of Demurrer and*  
*Pleadings: So as sufficient Matter appear in*  
*the said Pleadings, upon which the Court may*  
*give*



give Judgment according to the very Right of K.'s Bench. the Cause; and therefore no Advantage or Exception shall be taken, of or for an immaterial Traverse, or of or for the Default of entring Pledges upon any Bill or Declaration; or of or for the Default of alledging the Bringing into Court any Bond, Bill, Indenture, or other Deed whatsoever mentioned in the Declaration or other Pleading; or of or for the alledging the Bringing into Court Letters Testamentary, or Letters of Adminstration; or of or for the Omission of Vi & Armis & contra pacem, or either of them; or of or for the want of Averment of hoc paratus est verificare, or hoc paratus est verificare per Recordum; or of or for not alledging prout patet per Recordum, but the Court shall give Judgment according to the very Right of the Cause as aforesaid, without regarding any such Imperfections, Omissions and Defects, or any other Matter of the like Nature, except the same shall be specially and particularly set down, and shewn for Cause of Demurrer.

And note, That though the Want of Form is not sufficient upon a general Demurrer; yet it being made a Cause of Demurrer, may prevail: For the Judge is to have no Regard to Want of Form, but only to such Causes as the Party demurring shall set down.

And if there be Want of Substance, a general Demurrer will suffice without shewing Causes: Sed quere.

## Of Issues and Demurrers.

**W**Hen there are two or more Issues upon a Pleading, then after the Tender of the last Issue, *Et de hoc poñt se super Pñiam & pñia' A. sitit', &c.* you add, *Et quoad triand tam erit' ist' quam pñia' at' erit' int' partes pñict supius sitit' junct' ven' inde Jur' coram Dño Rege apud Westm' die . . . . . pr' post : . . . . Et qui nec, &c. ad recogn', &c. quia tam, &c. idem dies dat' est partibus pñict ibm, (&c.)*

Where there is a Demurrer to one Part of the Declaration, and an Issue to the other Parts, the Trial may either be before or after the Arguing of the Demurrer, at the Election of the Plaintiff.

But if Judgment be given for the Plaintiff on the Demurrer; he may enter a *Non pros'* as to the Issue; and proceed to a Writ of Enquiry, on the Demurrer; but without a *Non pros'* he cannot have a Writ of Enquiry, because on the Trial of the Issue, the same Jury will ascertain the Damages for that Part to which the Demurrer was.

And the Jury must, if they find the Issue for the Plaintiff, give Damages upon the Issue, and Damages upon the Enquiry, severally; but if they find the Issue for the Defendant, then they must assess Damages upon the Inquiry; and if the Court gives Judgment for the Plaintiff

tiff upon the Demurrer, he shall have K.<sup>ts</sup> Bench. his Costs and Damages.

But if the Issue be tried first, then the *Distringas Jur* must be tam ad triandum erit' int' partes junct' quam ad inquirendum de dampnis si iudicium reddi' fuerit p quer' (ꝛ.)

## Demurrer and Issue.

Et quoad tam triand' erit' ist' unde partes pdict' posuer' se in Jur'am patrie quam ad inquirend' que dampna pdict' A. sustinuit occone pmiss' Unde partes pdict' posuer' se in Iudicium Cur si contingat Iudic' p pdict' A. vers' pstat C. inde reddi' ven' inde Jur' coram, (ꝛ.) ut in al' usque ibm, (ꝛ.)

Postea continuat' pcess' (ꝛ. ut in al' to the End of the Verdict) 200 l. dampnis Et pro mis' & custag' ist' ad 40 s. Then add, Et quoad inquirend' que dampna pdict' A. sustinuit occone pmiss' infrascript' Unde partes pdict' in Iudic' Cur se posuer' si contingat Iudic' p pdict' A. vers' pdict' C. inde reddi' tunc iidem Jur' dic' sup Sacram' suum quod pdict' A. sustin' dampna occone inde ad 100 l. Ideo cons' est quod pdict' A. recuper' versus pstat C. dampna pdict' p Jur' pdict' in for'nd' pdict' assess' necnon 11 l. 6 s. 8 d. p mis' & custag' pdict' eidem A. per Cur' dic' Dñi Regis nunc hic ex assensu suo de in'cro adjudicat' Que quidem dampna in toto se attingunt' ad 313 l. 6 s. 8 d. Et pdict' C. in mia, (ꝛ.)



## Demurrers.

## Issue and Demurrer.

Non Cul' quoad Vulnerationē; and justifies as Church-warden to the rest of the Assault.

Plaintiff demurrs to the Justification.  
Defendant joins in Demurrer.

Hic inde nondum, &c. Et quoad triand' erit' (&c.) Quam ad inquirend' que dampna (&c.) ibidem, (&c.) Ad quem diem, (&c.) Et quia Cur', (&c.) nondum advisatur dies inde ulterius, (&c.) Ad quem diem, &c. Et sup' hoc visis, (&c.) that the Plea was sufficient Ideo cons' est quod p'dict' A. nil capiat p' William. Et quod ipse & pleg' sui de pros' scit J. Doe & R. Roe sint inde in mia p' falso clamore suo Et p'dict' C. eat inde sine die, &c.

*Respondeas  
Ouster and  
Plea.*

After a Demurrer to a Plea in Abatement, the Judgment on a *Respondeas Ouster*: Some ignorantly enter up the second Plea, taking no Notice of the Demurrer, or the Judgment thereon; which is a Mistrial, and void. The *Respondeas Ouster*, and the Plea, ought to be entred upon the Demurrer-Roll, and the Record for Trial is to be taken off the Roll.

The Form is thus:

After the Demurrer is continued to the Day of the Judgment given, then say,

Ad quem diem venit tam p'dict' Quer' p' Attozid suum p'dict' quam p'dict' Del' in  
\* ppz'

\* *propz' pson sua & super hoc lecto & au-* K.'s Bench.  
*dito plito pdict' per pdict' Def. superius pli-*  
*cat' videtur Cur' dic' Dñi Regis hic quod*  
*Idem plitum insufficiens est ad Cur' Dñi*  
*Regis nunc hic ad cassand Willam pdict' Et*  
*quod pdict' Def. ad Willam pze Quer' res*  
*spondeat, &c. super hoc Idem Def. p A. B.*  
*Attozū suum dic' quod ipse Non assumpsit*  
*sup se modo & forma put pze Quer' supi-*  
*us & sus eum narrabit Et de hoc ponit se*  
*super Patriam Et pze quer' filii', &c. I-*  
*deo ven' inde Jur' coram Dño Rege (ut*  
*in ap.)*

\* If the Plea be pleaded in *ppria per-*  
*sona*; but if by an Attorney, then name the  
 Attorney, and afterwards leave out the  
 Attorney's Name, and say only *p Attozū*  
*suum pze dic', &c.*

In order to make up the Paper-Book  
 on a Demurrer, you deliver a Copy of  
 the Declaration to the Clerk of the Pa-  
 pers, who makes up the Paper-Book, and  
 gives a four Days Rule in the Margin  
 thereof, for the Defendant to rejoin; o-  
 therwise Judgment. If the Defendant re-  
 turns the Book in time, and pays you  
 8 *d. per Sheet* for his Pleadings, you en-  
 ter your Proceedings with Mr. *Lantrow*;  
 move for a *Concilium*, draw up and serve  
 the Rule, enter your Cause with the  
 Clerk of the Papers, deliver your Paper-  
 Books to the Judges, and argue the De-  
 murrer; and if Judgment goes for the  
 Plaintiff, draw up your Rule for Judg-  
 ment,

K.'s Bench. ment, serve the same, and give Notice of Executing a Writ of Enquiry——but if it is in Debt you give no Notice of executing a Writ of Enquiry, but take out your Execution.

If there is an Issue as to Part, and Demurrer as to the other Part, you give Notice of Trial, and proceed to try your Cause, and argue your Demurrer (too if needful) in manner as is before directed.

But if the Plaintiff refuses to join in Demurrer, you may have a Rule from the Master of the Office, which is entered with the Clerk of the Rules; and if he does not join in Demurrer before the Rule is out, you may sign a *Non pros?*

*Note,* On Delivery of the Paper-Book of Demurrer to the Defendant's Attorney, you cannot give Notice of executing a Writ of Enquiry, but you must stay till after you have obtained Judgment.

*Note* also, The Defendant's Attorney may, at the Expiration of the Time for returning the Paper-Book, wave his Demurrer, and give the General Issue; and Notice of Trial must be given, but from the Time of pleading the General Issue.



*Of Writs of Error.*

The Manner of Entering a Writ of Error of Record out of the *Common Pleas*, returnable in the *King's Bench*.

**D**ominus Rex mand' dilecti' & fidel' suo Error in B.  
R. E. Mil' Capital' Justic' suo de Banco C. returna-  
bre suum ctm in hec verba R. Georgius ble in B.R.  
Dei Gra Magni Writ' Franc' & Hibnie  
Rex, &c. (and so enter the Writ of Error  
and Return, and the whole Record an-  
nexed to Writ, &c.)

## Common Error assigned.

Postea scilicet die Sabbati pr' post De-  
rañ Sancti Hillarii isto eodem Termino  
coram Dño Rege apud Westm' ven' pre-  
dict' C. D. p J. G. Attozū suum Et die  
quod in Record' & process' pzed acetiam in  
reddicōd' Judicii loquel' pzed manifeste est  
erratum in hoc videlicet quod per Record'  
pzed apparet quod Judic' pzed in forma p-  
dict' reddit' fuit p pzed A. B. versus pzed  
C. D. ubi per legem terre Judic' ill' reddi  
debuisset pro pzed C. D. versus pzed A.  
B. Ideo in eo manifeste est erratum Et pē  
idem C. D. hze die Domini Regis ad pre-  
muniend' pzed A. B. essend' coram dia' Do-  
mino Rege auditur Recordum & Process'  
pzed Et ei conceditur, &c. per quod pcept'  
est Wic' pzed quod p pboz, &c. Scire fac'  
pzed A. B. quod sit coram Domino Rege

K.'s Bench. a die Pasche in quindecim dies ubicunque,  
 ꝛc. auditur Record & Process' pꝛeꝛ ff, ꝛc.  
 Et ulterius, ꝛc. idem dies dat' est pꝛefat'  
 C. D. ꝛc. Ad quem diem coram Domino  
 Rege apud Westm' veni pꝛeꝛ C. D. p' At-  
 toꝛiꝛ suum pꝛeꝛ Et Ali' non mis' inde  
 brebe. Et pꝛeꝛ A. B. ad eund' diem solem-  
 nit' exact' p' W. T. Attoꝛiꝛ suum silt' veni  
 super quo idem C. ut pꝛiꝛ dicit quod in  
 Record & Process' pꝛeꝛ acetiam in reddi-  
 tione Iudicii pꝛeꝛ manifeste est errat' alle-  
 gando Error' pꝛo p' ipsum in forma pꝛeꝛ  
 allegat' & pet' quod iudicium pꝛeꝛ ob Er-  
 roz' & al' in Record & Process' pꝛo existend'  
 revocetur adnuller' & penitus p' nullo hea-  
 tur Et quod ipse ad omnia que occasione Ju-  
 dicii pꝛeꝛ amisit restituatur Et quod Cur'  
 dici' Dñi Regis hic pꝛeꝛ tam ad exami-  
 nationem Record & Process' pꝛeꝛ quam ma-  
 ter' pꝛeꝛ superius p' Error' assign' quodqꝫ  
 pꝛeꝛ A. B. ad Error' rejug', ꝛc. super  
 quo idem A. B. dic' quod nec in Record  
 & Process' pꝛeꝛ nec in redditione Iudicii  
 pꝛeꝛ in ullo est Erratum Et pet' quod Cur'  
 Domini Regis hic pꝛeꝛ tam ad exami-  
 nationem Record & process' pꝛeꝛ quam mater'  
 pꝛeꝛ superius pꝛo Error' Assign' Et quod ju-  
 diciu pꝛeꝛ in omnibus affirmer' sed quia  
 Cur' dici' Domini Regis nunc hic de ju-  
 dicio suo de & super pꝛeꝛ reddend' non-  
 dum advisatur dies inde dat' est partibus pꝛo  
 coram Domino Rege apud Westm' usque  
 in Cró S'ce Trini (Et sic continuatr' usque  
 Hil) Ad quem diem coram Domino Re-  
 ge apud Westm' veni partes pꝛeꝛ per At-  
 toꝛiꝛ suos pꝛo Sup' quo visis & p' Cur' Dñi  
 Regis

Plaintiff re-  
joins.

Continuance

Regis nunc hic plenè intellectis omnibus & singulis premissis diligenterque examinat' & inspect' tam Record' & Process' p'ed' ac iudic' super eisdem reddit' quam p'ò causis & mater' per p'ed' C. superius pro Error' assign' p' eo quod videtur Cur' Domini Regis nunc hic quod nec in Record' & Process' p'ed' nec in redditione iudicii p'ed' in ullo vitiosum aut defectuum existit ac quod Record' ill' in nullo fuit erratum Considerat' est quod iudicium p'ed' in omnibus affirmet' ac in omni roboze stet & effectu dictis causis & mater' superius pro Error' assign' in aliquo non obstat Et ulterius p' Cur' Domini Regis nunc hic consideratum est quod p'dict' A. B. recuperet vers' p'efat' C. D. 12 lib' eidem A. B. per Cur' Dñi Regis nunc hic secundum formam Stat' in humodi Casu nuper edit' & probis' adjudicat' pro mis' custag' & dampnis suis que sustinuit occasione dilatione executione iudicii p'ed' p'etertu prosecutione p'ed' h'is de Error' Et quod p'ed' A. B. heat inde executione, &c.

Judgment affirmed.

Costs, &c.

Judgment reversed.

Pro eo quod videtur Cur' Dñi Regis nunc hic quod in Record' & Process' p'ed' acetia in redditione iudicii p'ed' manifeste est Erratum cons' est quod iudicium p'ed' ob Error' ill' & al' in Record' & Process' p'ed' reverteretur adnulletur Et penitus pro nullo heatur Et quod p'ed' J. ad omnia & occasione iudicii amittit restituatur, &c.

Error



K.'s Bench.



Error.

Error in B.  
R. returna-  
ble in the  
Exchequer  
Chamber.

**A** Writ of Error in the *King's Bench* returnable in the *Exchequer* Chamber must be allowed by the Clerk of the Errors, and a Copy of such Allowance must be served on the Defendant's Attorney in Error. If the Writ is returnable the first Return in Term, (there being but two Returns in each Term for that Purpose) the Clerk of the Errors will give you a Rule to transcribe in Eight Days, a Copy of which you must serve on the Attorney for the Plaintiff in Error; and he must transcribe the same Term, alledge Diminution the Term following, and assign Errors the Term next after, and the Term after that argue the Errors. But if the Defendant in Error sleeps, and does not give a Rule to transcribe upon the Return of the Writ of Error, and a Term or two, or any Time after, gives a Rule to transcribe, the Plaintiff in Error must transcribe and alledge Diminution the same Term, assign Errors the next, and argue the Term after.

*Error quod coram vob' residet.*

*Error quod co-  
ram vob' resi-  
det.*

**T**His Writ of Error is allowed in Court by the Clerk of the Rules, who draws up a Rule of such Allowance, and

and then the Attorney for the Defen-K.'s Bench.  
 dant, serves the Plaintiff's Attorney with a Copy of the Writ of Error and Rule, whereby it appears to be allowed, upon which the Defendant's Attorney in Error, draws up a Rule in Form following.

A. }  
 v' } in Error.  
 B. }

*Pliff Quer in Error' Assign Error' infra 4 dies post notitiam hujus regle ei vel ejus Attozid dand fiat non pros' pro Def' in Error'.*

This Rule Mr. Clerke the Secondary signs, and then it must be carried to the Clerk of the Rules, who will draw up a Rule from it upon Stamp, for which you pay 2 s. 4 d. and then serve a Copy on the Attorney for the Plaintiff in Error——and if he assigns any Error, you must either apply to it, or demur, as you see Occasion; and in Case of Demurrer, you make up a Book as you do other Paper-Books, and put the Cause upon Return of the Book in the Paper to be argued. The Errors are to be assigned and entered upon the Record of the Judgments.

*Note,* Upon this Writ of Error there is no Bail to be given, in respect Errors may

K.'s Bench. may be assigned and the Book made up; the same Term. The Error to be assigned must be Facts; for the Judges of the same Court cannot be Judges of any Error upon Record, which is supposed to be their own Entry, and upon Issue taken of Error in Fact, you may proceed to Trial, *per Pais*, as in other Common Cases.

### *Error in Parliament.*

IF you bring a Writ of Error in Parliament, to reverse a Judgment in the King's Bench, you must get the Curfitor to procure a Warrant from the King, for which you are to pay 5 *l.* and for Allowance with the Clerk of the Errors you likewise pay 4 *l.* and then the Lord Chief Justice carries the Record, and a Transcript thereof, up to the House of Lords, and after they are examined, there he leaves the Transcript with the Lords, but brings the Record back again, then if you are for the Defendant in Error, you must apply to some Lord to move that the Plaintiff in Error may assign his Errors; but if you are for the Plaintiff, get him to move that upon your assigning Errors, the Defendant may appear and make his Defence: After hearing of Counsel on both Sides, and the Lords having either affirmed or reversed the Judgment, the Clerk of the Parliament remands the Transcript of the Record into the King's Bench,

Usually two  
on each Side.



Bench, with the Affirmation or Reversal K.'s Bench. thereof, to be entered there upon Record.

In Matters of Weight and Difficulty, the Lords examine the Errors with the Advice and Counsel of the Judges who inform them what the Law is in such Cases; and if Judgment be reversed, then Commandment is given to the Lord Chancellor, to do Execution accordingly; but if the Judgment be affirmed, the Court of King's Bench is to proceed to Execution, &c.

Placitum ad Scire fac' versus Manucap'.

Et pres A. B. & C. D. per . . . . At-  
tor nat' suum veid & petunt iudic' de hze-  
ve de Scire fac' p'dict' quia dicunt quod post  
reddicionem iudicii p'dict' versus p'fat' (Def.)  
in forma p'dict' habet' & ante emanacion' hris  
de Scire fac' p'dict' versus p'dict' A. B. & C.  
D. nullu' hzeve de Capias ad satisfaciend'  
de & super Iudicio illo p' p'dict' quer' versus  
p'dict' Def. debito modo prosecut' & recoz-  
nat' fuit quod secundum cons' Cur' ill' a  
tempore cuius contrarii memoria hominu'  
non existit usitat' & approbat' in eadem Cur'  
fieri debuisset antequam aliquod hzeve de  
Scire fac' versus p'dict' A. B. & C. D. e-  
manasse debuit & hoc parat' sunt verificare  
unde petunt iudiciu' & quod hze de Scire  
fac' p'dict' cassetur.

Repli-

## Replication.

Et p̄dict' quer' dicit quod ipse p̄ aliqua  
 p̄allegat' ab execucon' sua p̄dict' de debito &  
 dampnis p̄dict' p̄ A. B. & C. D. in for-  
 ma p̄dict' Recognit' p̄tertu Recognicon' p̄-  
 dict' habens bzeve de Scire fac' cassari non  
 debet quia dicit quod post reddiconem iudicii  
 p̄dict' versus p̄fat' (Def.) in forma p̄dict'  
 hic' & ante emanacionem p̄dict' h̄ris de Scire  
 fac' versus p̄fat' A. & C. scilicet (the Day  
 of the *Teste* of the *Capias*) p̄dict' Cur' dia'  
 Dñi Regis coram ipso Rege apud Westm'  
 p̄secut' fuit quoddam bzeve de Capias ad  
 satisfaciend' versus p̄dict' Def. tunc Wic'  
 Lond' direct' p̄ quod quidem bzeve dictus  
 Dominus Rex eisdem tunc Wic' London'  
 p̄cepit quod caperent p̄dict' Def. si invent'  
 fuisset in Ballia sua & eum salvo custod'  
 Ita quod herent corpus eius coram dicto Do-  
 mino Rege die (the Return of the Writ) ad  
 satisfaciend' p̄fat' quer' de Centum libris nec-  
 non 10 l. quas p̄dict' quer' in Cur' dia'  
 Dñi Regis coram ipso Rege apud Westm'  
 sustinuit tam occasione detentionis debiti illius  
 quam p̄ mils' & custag' suis p̄ ipsum circa  
 secam suam in ea parte appoit' unde p̄-  
 dict' Def. convict' fuit p̄out constat de re-  
 cordo Et quod p̄dict' Wic' London' herent  
 ibi tunc bzeve illud p̄dict' quod quidem h̄ze  
 de Capias ad satisfaciend' de & super iudi-  
 cio illo p̄o p̄dict' quer' versus p̄dict' Def.  
 de ho modo p̄secut' fuit & ante Record' e-  
 iusdem h̄ris p̄fat' Wic' London' debito modo  
 delibe-

deliberat' fuit sup quo p'dict' quer' ad p'fat' K.'s Bench.  
 Retorn' ejusdem h'is ven' in p'pria p'sona sua & tunc Ric' London' videt' (&c.) ad  
 die mil' retorn' quod p'dict' Def. non fuit in-  
 veni' in Ballia sua put p' p'dict' h'ed de  
 Ca' Sa & retorn' inde in eadem Cur' dicit'  
 Dñi Regis corā ipso Rege apud Westm'  
 int' filiat' h'ebium de Ca' Sa in p'dict' Cur'  
 dict' Dñi Regis corā ipso Rege apud Westm'  
 de Recoꝝ remanent' affilat' plenius liquet &  
 apparet & hoc parat' est verificare unde p'  
 quer' petit Execucionem de p'dict' de ho &  
 dampnis p'dict' in forma p'dict' recognit' p'cep-  
 tu recognitionis p'dict' sibi adjudicar', &c.

**Aliud placitum ad Scire Facias versus Ma-  
 nucaptor'.**

Sup quo ven' A. B. & C. D. p. . . . Nul' tiel Re-  
 Attoꝝ suum & dicunt quod p'dict' quer' cord.  
 Execucionem suam versus eos de de ho &  
 dampnis p'dict' here non debet quia dicunt  
 quod non hetur Ele Recoꝝ Recognitionis  
 p'dict' quat' p'dict' quer' p' h'ie suū supius  
 suppon' Et hoc parati sunt v'ificare unde  
 petunt judic' si p'dict' quer' Execucionem su-  
 am versus eos de debito & dampnis p'dict'  
 here debeat, &c.

Repli-





## Replication.

Et p'dict' quer' dicit quod ipse p aliqua p  
p'dict' A. B. & C. D. superius placitando  
allegat' ab Executione sua p'dict' versus eos  
de deho & dampnis p'dict' habens pcludi  
seu retardari non debet quia dicit' quod h'etur  
tale Record Recognitionis p'dict' qual' ipse p h'ez  
be suad p'dict' supius supponit Et hoc parat' est  
verificare unde p'dict' quer' petit Executionem  
de deho & dampnis p'dict' in forma p'dict'  
Recognit' p'textu Recognitionis p'dict' sibi  
adjudicari, &c.

## Aliter sic.

Et hoc paratus est verificare p Record  
Recognitionem p'dict' put' patet in Cur' dia'  
Dni Regis coram ipso Rege apud Westm  
p'dict' Terminum. . . Anno, &c. in Rotulo 66.  
Et sup hoc p'dict' quer' pet' quod Record Re-  
cognitionis p'dict' p Cur' hic videatur & in-  
spiciatur, &c.

## Acknowledgment of Restitution.

. . . Postea scilicet die . . . prox' post . . .  
Anno Regni Dni Georgii nunc Reg' Mag'  
Brit', &c. septimo coram eodem Dno Re-  
ge apud Westm veni p'dict' J. p R. G. Actorum  
suum Et cogit se fuisse restitutionem a p'sat  
W. de omnibus denar' sumis q' ipse idem J.  
occasione Iudicii p'dict' amisit Ideo idem W. de  
omnib' talib' denar' sumis sit inde quiet', &c.

*Non Pros'* for not declaring after the Cause removed by *Habeas Corpus*.

London H. C. D. qui arrestat fuit vice  
 bat in Cur Dom Georgii nunc Regis  
 tent apud London pdict in Guildhall ejus-  
 dem Civit ——— die ——— Anno Rñi  
 dia' Dom Regis decimotertio coram J. S.  
 at und Vic civit London pdict' vers' ip-  
 sum C. ad Sect' A. B. in quodam plito  
 transgt sup casum ad dampnum ipsius A.  
 100 l. & ob defectum sufficienti manucaptoz  
 & securitat ad respondend pdict A. in plito  
 pdict' detent fuit in prisona Dom Regis  
 sub custod pdict J. S. At tunc und Vic ci-  
 vit pdict p causa pdict' posteaque scilt ———  
 die ——— Anno 13 supradia' idem C. vir-  
 tute ejusdem brevis dia' Dom Regis de  
 habend Corpus cum causa Majori & Aldris  
 & Vic Civit' London direct' & extra Cur  
 dia' Dom Regis coram ipso Rege apud  
 Westm' in Com' Wido emanand p pfat  
 J. S. tunc und vic Civit' pdict postea scilt  
 eodem ——— die ——— Anno 13 supradia'  
 duct fuit coram E. R. Wilt und Justic dia'  
 Dom' Regis ad plita in Cur ipsius Dom'  
 Regis coram ipso Rege tenend Assign ad  
 pud Cameram suam situat in le Serjeants  
 Inn in Fleetstreet, London, Et adtunc  
 Et ibidem p defectu manucaptoz & secu-  
 ritat ad respondend pdict A. B. in plito  
 pdict p eundem Justic comissa' fuit custod  
 Har maresc Cur dia' Dom' Regis co-  
 X ram

K.'s Bench. ram ipso Rege ad sectam p̄dict' A. B. in p̄lico p̄dict' p̄dictoque C. sic in Custod' Mar' Marese p̄dict' existend' p̄dict' A. B. in eadem Cur' Dom' Regis coram ipso Rege Willam sive narr' suam in aliqua accione quacunque infra duos terminos post Commissionem ipsius C. in Custod' mar' Marese p̄dict' ad sectam p̄dict' A. ut p̄fertur non exhibuit nec est querelam suam p̄dict' vers' p̄fat' C. ulterius p̄lecut' Ideo Cons' est qd p̄dict' A. nil capiat p̄ querelam suam p̄dict' sed quod ipse & p̄leg' sui de pros' scilicet Johannes Doe & Ricardus Roe inde sint in p̄ia, &c. Et p̄dict' C. eat inde sine die, &c.

Intratio non pros' super Latitat.

No Rule is given to declare.

London ff. **A.** B. arrestat' fuit virtute h̄is  
 tat coram ipso Rege emanand' Et Wic' London' direct' recognabile coram dic' Dom' Rege de Termino Pasche apud Westm' die . . . . . p̄ior' post . . . . . jam ultimo p̄terito ad respond' C. D. de p̄lico Transgr' Et idem A. B. ad eundem diem per . . . . . Attozū suum secundum formam Statuti in huiusmodi casu uuper edic' & p̄obis' comperuit Et p̄fat' C. D. in eadem Cur' dia' Domini Regis coram ipso Rege apud Westm' per

Note, these Judgments upon non pros' must be drawn upon double half Crown Stamp and entred with Mr.

Lantrow, and

Costs signed by the Master as in other Judgments, by Confession, or non Informat'.



per Willam sive Mar' suam in aliqua ac-  
 tione personal' sive ejectione firme versus ip-  
 sum A. B. ante finem Termin' Sec' Tris-  
 nitatis extunc p'or' sequen' existen' p' ter-  
 mino post comparen' ipsius A. B. ad sec-  
 tam C. D. non narrabit Ideo cons' est quod  
 p'dict' C. D. nil capiat per breve suum p-  
 dia' sed quod ut in mia' &c. Et ulterius cons'  
 est quod p'dict' A. B. recuperet versus p-  
 dia' C. D. 30 s. p'ro mis' & custagiis suis  
 per ipsum circa defensionem suam in hac  
 parte sustent' eidem A. B. per Cur' dict' Do-  
 mini Regis nunc hic juxta formam Statu-  
 ri in hujusmodi casu nuper edit' & provis'  
 adjudicat Et quod p'dict' A. B. heat inde  
 versus p'dict' C. D. Executionem, &c.

Entry of a *Non pros'* upon an Action by  
*Latitat*, and Judgment thereupon.

Soms' ff. A. B. arrestat' fuit ad sectam  
 C. D. virtute h'ris D'ni Regis de Latit'  
 rei' coram D'no Rege apud Westm' (ali-  
 die, as in the *Lat.* Anno Regni dia' D'ni  
 Regis nunc duodecimo Et p'dict' C. tunc  
 & ibidem protulit in Cur' D'ni Regis hic  
 quandam Willam suam vers' p'dict' A. in  
 custod' Mar', &c. de p'tico, (&c.) quam qui-  
 dem Willam idem C. D. versus p'dict' A.  
 postea non est p'os' Ideo adjudicantur ei-  
 dem A. p' mis' & custag' suis p' ipm'  
 in hac parte appoi' 40 s. juxta form' Sta-  
 tuti, &c. (ut postea.)

## Aliter.

ff. A. B. qui tulit Bill suam de p'tito  
 Tūgr' Glus C. D. comparēd p'textu b'ris  
 Dñi Regis de Latit' ad lectam ipsius A.  
 B. in Cur' Dñi Regis p'dict' emanand' Bill  
 lam illam non est pros' Ideo adjudicant' ei  
 dem C. p' Cur' Dñi Regis hic pro mis'  
 & custag' 40 s. juxta formam Statut', &c.  
 Et ipse & pleg' sui de pros' scilicet Joes  
 Doe & Ricus Roe in mia, &c. Et p'dict' A.  
 eat inde sine die, &c.

*Aliter*, for not declaring within three Days

ff. A. B. arrestat ad lectam R. G. perso  
 nalit' comperuit coram Dño Rege apud  
 Westm' die . . . . . pr' post . . . . Et  
 quia p'dict' R. non narrabit verlus p'fat' A:  
 B. infra tres dies extunc p'xor' sequend' I  
 deo juxta formam Statuti adjudicantur ei  
 dem A. per Cur' Dñi Regis 12 s. p' mis'  
 & custag', (&c.)

Intratio *Non Pros'* pro defectu Replica  
 tionis Quer'. After setting forth the  
 Proceedings, say,

\* You take  
 this Rule  
 from the Ma  
 ster, and en  
 ter it with the  
 Clerk of the  
 Papers, and  
 serve it on  
 the Plaintiff's  
 Attorney.

Et super hoc p'dict' Def. petit quod Quer'  
 ad p'ticum ipsius Def. replicaret super quo  
 dies (as in the \* Rule that is given) dat'  
 est per Cur' dict' Dñi Regis nunc hic p'fat'  
 Quer' ad replicand' ad p'dict' p'ticum p'dict'  
 Def.

Def. Et dict' est eidem Quer' p Cur' dia' K.'s Bench. Dñi Regis nunc hic quod ipse ad eundem die repleat ad quem diem coram Dño Rege apud Westm' veni p'dict' Def. p Arcozū suum p'dict' Et p'dict' Quer' licet solempniter exact' non venit nec ad p'litum p'dict' Def. replicabit nec est Willam suam p'dict' versus eundem Def. ulterius p'secut' Iō cons' est per Cur' hic quod p'dict' quer' nichil caperet p Willam suam p'dict' sed quod ipse & pleg' sui de pros' scilicet Johannes Doe & Ric' Roe sint in p'dicta Et p'dict' def. eat inde sine die, &c. Et ulterius p Cur' hic cons' est quod p'dict' Def. recuperet versus p'reb Quer' 3 l. p mis' & custagiis suis per ipm circa defensionem suam p'dict' in hac parte sustinet eidem Def. per Cur' Dñi Regis nunc hic juxta formam Statuti in huiusmodi casu inde nuper edit' & provis' adjudicat Et idem def. heat executionem (&c.)

*Non Pros' for not Joining in Demurrer.*

**E**T sup hoc idem def. petit quod p'dict' Quer' in Mōracion cum eodem def. jungat & supinde dies dat' est p Cur' dia' Domini Regis nunc hic p'fat quer' coram domino Rege apud Westm' usque diem \* Iobis pr' post Octab S'ci Martini extunc pr' sequen' ad jungendū cum eodem def. in Mōratione in Lege p'reb Et p'dict' Quer' ad eundem diem solempniter exact' non venit nec est Willam suam p'dict' vers' p'fat def. ulterius p'secut' sed default fecit Ideo cons' est

\* As in the Rule.



K.'s Bench. quod p'dict Quer' nil capiat p' billam suam  
 p'dict sed quod ipse & pleg' sui de ps' scite  
 Johannes Doe & Ric' Roe sint in p'da &  
 p'dict def. eat inde sine die, &c. Et Ulhe-  
 rius (as before).

*Intratio non pros' pro defectu General  
 Exit'.*

You must  
 take a Rule  
 as before.

Et de hoc ponit se super patriam Et  
 p'dict Def. per' quod p'dict, Quer' repli-  
 caret ad p'titum ipsius def. super quo dicit  
 est eidem Quer' per Cur' dicit' Dom' Regis  
 nunc hic quod ipse replicaret ad p'dict p'ti-  
 tum & intraret Exitu' in p'titum p'dict' die  
 . . . . . pro' post . . . . . periculo incumbit  
 Postea isto eodem Termino coram dicit' Do-  
 mino Rege apud Westm' ven' p'dict' Def.  
 per Attorn' suum p'dict' Et p'dict' Quer'  
 licet solempniter exacer' non ven' nec ad p'ti-  
 tum p'dict def. replicabit nec est Billam  
 suam p'dict versus eundem Def. ulterius  
 p'secut' Id (ut supra.)

*Non Pros' versus Quer' in Debito post  
 Demurrer junct' & custag' pro Def.*

Ad quem diem ven' in Cur' hic p'dict  
 Def. p' Attorn' suum p'dict' Et p'dict quer'  
 quarto die p'lici solempniter exacer' non ven'  
 nec est ulterius p'secut' Billam suam p-  
 dict' Id ipse & pleg' sui de p'sequendo sint  
 in p'da, &c. Et p'dict' def. eat inde sine  
 die, &c. Cona' est etiam quod p'dict def.  
 recuperet

recuperet versus p̄lat Quer' dampna sua K.'s Bench.  
 occone p̄mils' ad . . . . . eidem Def. ad re-  
 quisiitionem suam p̄ mis' & custag' suis in  
 ea parte sustene secundum formam Statuti  
 inde nup edic' & p̄bis p̄ Cur' hic adjudis-  
 cat (sc. ut in al'.)

*Quer' nolle prosequi post Exit' junct'.*

Postea scilicet septimo die . . . . . Ans-  
 no (sc.) ven' hic in Cur' p̄dict quer' p̄ At-  
 torum suum p̄dict & fatetur se hic in Cur'  
 ulterius nolle p̄sequi s̄lus p̄lat def. in p̄li-  
 to p̄dict Ideo idem def. eat inde sine die  
 (sc.)

*Intrac' Non pros' ad Barram.*

**Q**UAD ad veritat' de infra content' dicend' Continue th  
 elect triat & jurat fuer' ac ad bar' Postea, as i;  
 ram hujus Cur' de p̄dicto suo de & sup p̄ others usque.  
 mis' reddend' inter se coicand' recesser' &  
 postea ad eandem barram p̄ veredicto suo  
 in hac parte reddend' rebener' super quo  
 p̄dict quer' solempniter exaci' non ven' nec  
 est ps' Billam suam infrascript' Ad, &c.



*Of Proceeding by Original Writ  
in B. R.*

**I** Have before observed under Ejectment, That the Proceedings in this Court by Original Writ, are almost the same, as in the Court of Common Pleas.

But *note*, You seldom proceed against any Person by Original in the King's Bench, in Actions of Debt, Detinue, Covenant or Account, tho' you may in all other personal Actions, whereas the Court of Common Pleas, in their Way of Proceeding by Original, do take in all Manner of Actions, as well real as personal, and mixt.

If the Defendant is to be arrested or served with a Copy of the Process in *London*, you draw a *Præcipe* for the Filacer in this Form.

*The Præcipe.* Lond, ff. **S**I A. B. fec' vos secur' tunc  
pon' C. D. nup de (na-  
ming the Place of the Defendant's Abode)  
in Ballia v'ra (the Addition of the Defen-  
dant's Degree, Trade or Occupation) de  
p'lito quare cum p'o C. D. (and so set forth  
the whole Cause of Action as in a Decla-  
ration but instead of inde p'duc' sectam, &c.  
say ut dicitur). Under the *Præcipe* write  
Dig'



Orig' ret in Wanco Regis in Octab Purifi. K.'s Bench.  
 caſon Beate Marie ubicunque, &c.

Cap' ret. quinden Paſche.

E. F. Att Quer.

If the Action be laid in *Middleſex*, then *Precipe* in  
 you muſt draw your *Precipe* thus. *Middleſex*.

Widd, ff. **S** A. B. fec' te ſecur' tunc pone  
 C. D. nup de Iſlington in Comd  
 tuo Armiger', (&c.)

The Original is the Foundation of the *Capias*, and all other Proceſs ſued out afterwards, the Return whereof is uſually the *Teſte* of the *Capias*, except it be upon the Eſſoin-day of any Term, and then the *Capias* muſt be reſted the Firſt Day of that Term; and there muſt always be Fifteen Days between the *Teſte* and Return of the Original, and likewise of the *Capias*.

But if you ſet down the Return of the *Capias*, the Filacer of Courſe takes Care of the reſt: For moſt commonly the *Capias* is taken out before the Original (as the Courſe is in the Common Pleas) by leaving the *Precipe* with the Filacer, who makes you out a *Capias* thereupon, or you may for Expedition make your *Capias* out your ſelf and let your Filacer ſign it, and then carry it to be ſealed at the Seal-Office.

The

**K.'s Bench.** The Precipe is left with the Filacer and he carries it with others in convenient Time to the Cursitor, who makes him Originals thereupon, and after they are Sealed delivers them to the Filacer, who after they are returned files them with the *Custos brevium*.

The Form of the *Capias* in London, is as follows.

The *Capias*. **G**regorius Dei Gratia Magus Brit' Franc' & Hib Rex fidei Def. &c. Vic' London Saltem precipimus vobis quod Capiat' C. D. nup de (&c.) si invent' fuer' in Ballia v'ra Et eum salvo Custod' ita quod heat' Corpus ejus cor' nob' in quindeid Pasch ubique tunc fuerimus in Anglia ad respondend' A. B. de p'tito (setting forth the Action as in the *Precipe*) ad dampnum ipsius A. — libz' ut' dicitur Et heat' ibi hoc h'ze T. Roberto Raymond Hil apud Westm — die — Anno r'ni n'rd XIII<sup>o</sup>.

If the Defendant cannot be taken where the Action is laid, \*but resides in some other Country, then upon a *Non est inventus* returned upon the *Capias* directed to the Sheriff of the County where the Action was first laid, the Filacer thereof will make you a *Testatum Capias* into any other Country; or the Filacer will make you out, or you may make out your self, a *Testatum Capias*, without first taking out the

the *Capias*; and this *Testatum Capias* is of K.'s Bench. ten sued out by the Filacer of London and Middlesex, in order to try the Cause there, if the Defendant resides in another County.

The Form of the *Testatum Capias*, out of London into Berks. :

**C**orzius, &c. Vic' Berks salutem Pres-  
cipimus tibi quod Capias C. D. nup  
de R. in Com' Berks Gen' si invent' fu-  
er' in ballia tua Et eum salvo custod' ita  
quod habeas Corpus ejus coram nob'—  
ubicunque tunc fuerimus in Anglia ad res-  
pondend' A. B. de p'tito (as in the *Precipe*)  
and after ut dicitur you add pro eo quod  
Vic' R' Londond' nob' ad certum diem jam  
p'terit mand' quod p'd C. non est invent'  
in ballia U'ra cum *Testatum* exist' in Cur'  
nostra coram nob' quod p'reb' C. latit' &  
discurrit in Com' tuo Et heas ibi hoc h'es-  
se R. Robto Raymond Mil' (&c.)

The *Alias*, and *Pluries Capias*, and *Te-  
statum Capias* are the same as the former,  
only adding after *precipimus tibi* sicut alias  
(or pluries) *precipimus* (&c.)

On



K.'s Bench:



On these Special Writs by Original (where the Damages are laid above 40 l.) you pay a Fine to the King, which the Filacer receives for the Cursitor, and is as followeth.

From 40 l. to 66 : 13 : 4 } <sup>l.</sup> 00 : <sup>s.</sup> 6 : <sup>d.</sup> 8  
i. e. 100 Marks.

From 100 Marks to 100 l. --- 00 : 10 : 0

From 100 l. to 133 : 6 : 8 } 00 : 13 : 4  
i. e. 200 Marks.

From 200 Marks to 166 : 13 : 4 } 00 : 16 : 8

From 166 : 13 : 4 to 200 l. 01 : 0 : 0

For every 100 Marks more 00 : 6 : 8

For every 100 l. more — 00 : 10 : 0

Upon this *Capias* the Defendant is arrested ifailable, and the Sum for which the Defendant is held to Bail, must be endorsed on the Back of the *Capias*, in this Manner, *Sacr'um Quer' affill' pro* (the Sum in the Affidavit) and the Filacer signs it.

The

The Defendant being \* arrested, and K.'s Bench Bail above being put in before the Filacer, you then proceed to draw your Declaration in this Manner.

\* If the Def. be only served, he must enter his Appearance with the Filacer.

Pasche XIII<sup>o</sup> Georgii Regis.

London ff. **C** D. nup de as in the Capias Attach fuit ad Respondens A. B. de p'tico (as the Case is) Et Unde idem A. p E. T. Atornatum suum Queritur Quare Verbatim as in the Capias, but instead of ut dicitur you say Et inde producit sectam, &c.

You Write this Declaration copy-wise, deliver it to the Defendant's Attorney who will pay 4 *d.* per Sheet. You give a Rule to plead with the Clerk of the Rules and demand a Plea of the Defendant's Attorney before the Rule to plead is out.

*Note*, it is said that if the Writ be returnable the first Return of *Hillary* or *Trinity* Term; or the First or Second Return in *Easter* or *Michaelmas* Term, the Defendant must plead the same Term, if Rules are given in Time. If it be a Country Cause, the Defendant may plead at any time in the Term; but if the Cause be laid in *London* or *Middlesex*, the Defendant must plead, before the Rules to plead are out.

If the Defendant pleads, you make up the Record, sue out your *Venire*, *Disstringas*,

K.'s Bench. *gas*, and *Subpena's*, making them return-  
 Page 225. to able on a general Return-Day, *ubicun-*  
 232. & Vide *que* (&c.) as is before directed.

Title Eject-  
 ment.

You sign these Writs with the same Filacer; but you enter your Proceedings with Mr. *Lantrow*; seal your Record at the *Nisi prius* Office in *Grays-Inn*; draw your Breviats, see your Counsel, summon your Witnesses, and proceed to Trial.

And if there be a Verdict against the Defendant, you must give a Rule upon the *Postea*, then stamp and enter it, and sign your Judgment with the Secondary, who will tax your Costs; then sue out your Writ of Execution, making it returnable as others on a general Return-Day, *Ubicunque*, &c.

Observe, that if the Defendant pleads Specially, the Plaintiff's Attorney hath the Liberty of making up the special Pleadings himself, without applying to the Clerk of the Papers for that Purpose.

But *note*, That the Court will not grant Oyer of any Original, unless Oyer is demanded within 4 Days after the Rule to plead is given,

If the Defendant does not plead, but lets Judgment go by Default against him, you proceed in the usual Manner to execute a Writ of Enquiry in the following Form.



*Writ of Enquiry.*

**G** Corgius (et.) Vic' Londoni salutem  
 Cum C. D. nuper de (et.) Attach fu-  
 it essend in Cur' nostra coram nob de pla-  
 cito (and so on as in the Declaration)  
 ad dampnum ipsius A. ——— lib' ut dicitur  
 Taliterque (et.) before in the King's Bench,  
 Page 137. Only you make the Writ re-  
 turnable on a General Return-Day ubi-  
 cunque (et.) and after Inquisition ill' say,  
 ceperitis mittatis unacum hoc breve T. (et.)

In this Method of Proceeding by O-  
 riginal Writ, a Writ of Error cannot  
 be brought, or at least returnable, but  
 when the Parliament is sitting.



## Of Proceeding by Original to the Outlawry.

**Y**OU may proceed in Trespass, and Trespass upon the Case, but not in Debt or Covenant, which is thus: You must draw up your Instruction for the Original according to your Case, and carry it to the Cursitor of the County, where you will try the Action; if you carry it within the first Week of the Term, then the Original will be returnable the first Day of the next preceeding Term, but you must take Care that your Action did arise so long since, so as not to date the Original before the Cause of Action.

Then carry your Original to the Filacer of the County (who will make you out *Capias, Alias & Pluries*) if you proceed to Outlawry, each of which must be 15 Days between the Date and the Return; you return them *Non est inventus* of course, and file them with the *Custos Brevium*. And the same Filacer will make you out an Exigent, and Proclamations, which are made returnable after five County Courts, (which are held but once in four Weeks) if the Action be laid in the Country.

But if it be Laid in *London*, six Weeks K.'s Bench. Time will serve, because the *Hustings* are held every Fortnight. The *Filacer* of *London* and *Middlesex* will of Course make you out the *Capias*, *Alias* and *Pluries*, and get them returned and \* filed himself, and \* He also will likewise make out for you the files War- Exigent and Proclamation; you seal the rants of At- Exigent and carry it to one of the Comp- torney for terys to be perfected, and the Proclamation you. being sealed, you send it down to the Sheriff of the County of which the Defendant is named, to be executed. When the Proclamation is returned, you should † file it † In London with the *Custos Brevium*, and your *Exigent*, you file it being also returned, you carry it to the with the *Filacer*. Clerk of the Outlawries, who will make you out a *Capias utlagatum*, either General or Special; the one is against the Body only, the other against Body, Lands, and Goods.

If there be not five County-Days between the *Teste* and Return of the *Exigent*, you may procure an *Allocatur* from the Exigenter, to bring in the five County-Days; and so in *London* if a *Husting* be wanting.

If the Defendant appears on the *Exigent*, and supercedes the Outlawry, wherein having entered an Appearance by Attorney with the *Filacer*, the Plaintiff is to declare against him, and deliver the Defendant's Attorney a Copy of the Declaration, to which the Defendant, if Rules are given in Time, must plead the



K.'s Bench. same Term, and if there be special Pleadings, the Plaintiff's Attorney has the Privilege of making up the Paper-Book, &c.

*Vide post.* Title, Exigent and Outlawry, more concerning the Method of Appearing to, and superseding the Exigent, and reversing the Outlawry.

## A *Jurata* upon a Writ of *Scire facias*.

**I**Dem dies dat est partibus p̄dict' ibm  
 &c. Ad quem diem coram Dño Rege  
 apud Westm̄ vend partes p̄dict' p̄ Attorn  
 suos p̄dict Et tūc videb't A. B. retorn h're  
 Domini Regis de venire fac ei in forma  
 p̄dict direct in omnibus servit & execut us  
 natum pannello de nōibus Jur' eidem h'ri  
 annex' quorum null, &c. Ideo p̄cept est eis  
 dem tūc quod Distring' Jur' p̄dict p̄ om-  
 nes terras, &c. Et quod de exit, (&c.) is-  
 ta quod habeat corpora eorum coram Dño  
 Rege a die Pasche in quindecim dies ubi-  
 cunque, &c. vel coram Justic Domini Re-  
 gis ad assiax in Cond S. capiend assignd  
 si prius die . . . . apud . . . . p̄ formam Stat,  
 &c. vend p̄ defectu Jur', &c. idem dies dat  
 est partibus p̄dict' ibm, &c. Et sciendum  
 est (&c. as before in other *Jurata's*.)



Upon an *Original*.

ff. Jur' int' D. E. quer' & A. B. nup  
de C. in Comd p'dict' Peon'd de placito  
Transgr' sup' Calum ponitur in resp'nd  
cozam Domino Rege a die S'ti Michis in  
tres Septimanas ubicunque, (tc.) Nisi Ju-  
stic' Domini Regis ad Alias' in Comd  
p'dict' capiend' assign', (tc. ut in al') idem  
dies dat' est partibus p'dict', tc. Et scien-  
dum est (tc. as in others; see before.)

*Note*, The Day in Bank must be on a  
Return-Day, but the Day of  
Trial on a Day certain, as *Friday 21st*  
of *July*, &c.

Upon an *Audita Querela*.

ff. Jur' int' A. B. p' Attorn' suum quer'  
& C. D. ad recognd' utrum Administratio om-  
nium bonorum & catallozum Jurid' & Cres-  
ditoz' q' fuer' E. F. defunct' comissa fuit G.  
H. necne ponitur in resp'nd' cozam Dño  
Rege a die Pasche in quindecim dies ubicun-  
que, tc. vel cozam Justic', tc. (as before.)

If in *London*, say,

Ubiunque, &c. *Plit J. H. Plit Capital  
Justic Domini Regis ad plita in Cur ip  
sius Domini Regis coram iplo Rege tenend  
assign ppius die, (as before upon the like  
Jurata.)*

Upon a *Writ of Error* brought, and Issue.

*L. ff. Jur int A. B. nuper de, (et.) p  
Attorn suum quer & C. D. Gen ad recogn  
sup Sacram suum utrum pdict A. B. tems  
poze reddico Judicii pdict Illus eund A.  
B. ad lect' pdict C. trite die Veneris pr  
post Crastin Sde Trinitatis anno 1720. an  
noque Regni die Domini Regis nunc sep  
timo fuit infra etat viginti & unius an  
nozum necne ponitur in respnd, &c.*

When the Sheriff is a Party to the Re-  
cord, say at the latter End;

*Deliberatur de Recordo Corond Comd p  
dict in forma Juris exequens piculo incum  
ben, &c.*

Where



Where the Plaintiff or Defendant's Addition in the Beginning of the Record is Armiger, and in the Conclusion is Miles, then in the *Jurata* say nup Armig modo Mil and so of other Titles.

I have seen a Precedent for a *Jurata* upon a *Scire Fac'* thus.

*Jur' inter A. B. in propria psona sua quer' & C. D. de plico de bi unde Sci fac' ponitur in Respnd.* But others said it must be as is before mentioned, and shewed a *Jurat'* upon a Record in the same Term.

The first of the year was a very  
cold one, and the weather was  
very disagreeable. The snow  
was very deep, and the wind  
was very strong. The ice was  
very thick, and the water was  
very cold.

The second of the year was a  
very warm one, and the weather  
was very pleasant. The snow  
was very thin, and the wind  
was very light. The ice was  
very thin, and the water was  
very warm.

The third of the year was a  
very cold one, and the weather  
was very disagreeable. The snow  
was very deep, and the wind  
was very strong. The ice was  
very thick, and the water was  
very cold.

The fourth of the year was a  
very warm one, and the weather  
was very pleasant. The snow  
was very thin, and the wind  
was very light. The ice was  
very thin, and the water was  
very warm.

The fifth of the year was a  
very cold one, and the weather  
was very disagreeable. The snow  
was very deep, and the wind  
was very strong. The ice was  
very thick, and the water was  
very cold.

The sixth of the year was a  
very warm one, and the weather  
was very pleasant. The snow  
was very thin, and the wind  
was very light. The ice was  
very thin, and the water was  
very warm.

The seventh of the year was a  
very cold one, and the weather  
was very disagreeable. The snow  
was very deep, and the wind  
was very strong. The ice was  
very thick, and the water was  
very cold.

The eighth of the year was a  
very warm one, and the weather  
was very pleasant. The snow  
was very thin, and the wind  
was very light. The ice was  
very thin, and the water was  
very warm.

The ninth of the year was a  
very cold one, and the weather  
was very disagreeable. The snow  
was very deep, and the wind  
was very strong. The ice was  
very thick, and the water was  
very cold.

The tenth of the year was a  
very warm one, and the weather  
was very pleasant. The snow  
was very thin, and the wind  
was very light. The ice was  
very thin, and the water was  
very warm.

THE  
AUTHORITY  
AND  
JURISDICTION  
OF THE  
COURT  
OF  
Common Pleas.

**T**HE Jurisdiction of this Court is general, and extends it self thro'out *England*, in like Manner as the King's Bench; but this Court is fixt, and must be held in a Place certain, and does not follow the King, as the King's Bench formerly did; it holds Pleas of all civil Causes at Common Law, between Subject and Subject, in Actions real, personal and mixt.

Real Actions, such as concern Inheritances, by which Fines and Recoveries pass, and all others by Original Writ; Personal Actions of Things transitory, as Money, Goods, Chattel personal, &c.



Com. Pleas. Mixt Actions partaking of the Nature of both, as *Ejectione firmæ*, *Quare Impedit*, Waste; wherein is recovered not only the Land or Personage, but likewise Damages for Detainer, Disturbance in Presentation, &c. Actions popular, as *Decies tantum*, Champerty, Maintenance, &c. are cognizable by this Court: Actions penal, as Actions for Debt, &c. upon any Statute which gives a Penalty for the Breach thereof, to those who will sue for the same.

Regularly this Court cannot hold any Plea in Actions real, personal or mixt, but by an Original Writ out of the Court of Chancery, returnable in this Court, unless it be by Bill, for or against any Officer, or other privileged Person of the Court. Prohibitions to keep Inferior Courts within their due Bounds, &c.

In personal and mixt Actions this Court and B. R. have for the most Part a concurrent Jurisdiction, but none are admitted to plead at the Bar of this Court, but Serjeants at Law. This Court hath no Cognizance of Pleas of the Crown.

*The Judges are,*

Judges.

THE Lord Chief Justice, and Three other Justices.


Their Patents are *quam diu se bene gesserint*.

Clerks

*Clerks and Officers.*

**T**HE *Custos Brevium* is the Chief Clerk in this Court; he receives and keeps <sup>*Custos Brevium.*</sup> all Writs returnable here, filing each Return by it self, and at the End of every Term receives from the Prothonitaries, all the Records of *Nisi prius* or *Postea's*, (which were first brought by the Clerk of Assize of every Circuit to the Prothonitary who entered the Issue, who gets the Clerk of the Judgments to enter up Judgment thereon, and then the Prothonitary gets of the Court a Peremptory Day, for each Party to speak in Arrest of Judgment, which being past, he enters the Verdict and Judgment thereon in the Rolls of Court,) and at the End of every Term, the Clerk of the Judgments delivers to the *Custos Brevium*, all Records of *Nisi prius* come in that Term, who filing the Record together, carries them into the Treasury of the Records: He also enters the Writs of Covenant, and Concords of all Fines, and makes out Exemplifications and Copies of all Writs and Records thereupon, and also the Foot of every Fine filed with him, after every Fine is engrossed, the Parts thereof are divided between him and the Chirographer, whereof the Chirographer keeps the Writ of Covenant, and the Note of the Fine,

Com. Pleas.

 Fine, and the *Custos Brevium* keeps the Concord and the Foot thereof, on which Foot the Chirographer causes the Proclamations to be endorsed when they are proclaimed.

Prothonotaries.

The Prothonotaries of this Court are three, and each in his Office enters and enrolls all Declarations, Pleadings, Affizes and Judgments, and all other Entries of the Clerks and Attornies belonging to each of the Offices, the same Term the Appearance, &c. is made. They make out all Judicial Writs, *Venire facias*, *Habeas Corpus*, Writ of Execution and Seisin; Writs of Privilege to remove Causes from inferior Courts, where the Party has Cause of Privilege, and *habeas Corpus cum Causa*, *Procedendo*, *Scire facias*, Writs of Enquiry of Damages; and all Process upon Prohibitions, *Audita querela's*, false Judgment; they also enroll all Recognizances acknowledged here (except Recognizances on Bail and Original Writs, which is done by the *Filacer*) and all common Recoveries, and may make Exemplifications of any Record of the same Term, before the Rolls are delivered out of their Hands.

Each



Each Prothonotary has a Secondary, Secondaries. who are Assistants to them in the Execution of their Office.

The Clerk of the Warrants enters all Clerk of the Warrants of Attorney for Plaintiff and Warrants. Defendant, and all Deeds of Indenture, of Bargain and Sale, acknowledged in Court, or before any Judge thereof out of Court, and Estreats into the *Exchequer* all Issues, Fines and Amerciaments, which any way grow due to the King in this Court.

The Clerk of the Effoins keeps the Clerk of the Effoins. Roll thereof, wherein he enters them and exemplifies Non-suits and Effoins, for which certain Fees are appointed; he also provides Parchment and cuts it into Rolls Marking the Numbers thereon which he delivers out, and receives again after they are written, and makes them up in Bundles or Files, each Term.

There are several Filacers, among whom the several Counties in *England* are divided, they make out all Mesne Process, between the Original Writ and the Declaration (but where it is an Attachment, or Bill of Privilege, Prohibition or the like, that is wholly in the Prothonotary's Office, and where the Defendant is summoned

**Com. Pleas.** moned or resummoned, they issue out Distress infinite till Appearance; they make out all Writs of View, and Writs of Supersedeas where the Defendant appears in their Office after a *Capias* awarded, they may also enter Imprisances or General Issues, where the Appearance is entered with them, and Judgments by Confession thereupon before Issue joined, and Writs of Execution on the same, but if it be after a Verdict, though they enter the Issue, yet the Prothonotary must enter the Judgments.

**Exigenters.** The Exigenters are Four, who make all Exigents and Proclamations in order to an Outlawry.

**Clerk of the Juries.** The Clerk of the Juries makes out all *habeas Corpora Juratorum*, for summoning Juries to appear either in Court or at the Assizes, after the Panel is returned by the Sheriff, on the *Venire facias*, and enters in his Rolls the Awarding of the said Writs, and makes all Continuances till the Verdict given.

**Chirographer.** The Chirographer by his Deputy, engrosseth all Fines upon Writs of Covenants, and maketh a perpetual Record thereof, after they are passed through the other Offices, and makes and delivers Indentures of them to the Parties; and another Part, called the Foot of the Fine, containing the Effect thereof, he makes and delivers to the *Custas Brevium*; he also by him-

himself or Deputy proclaims all the Fines Com. Pleas. in Court every Term according to the Statute, and then repairing to the *Custos Brevium* Office, he there endorses the Proclamations on the Foot, and always keeps the Writ of Covenant, and the Note of the Fine.

The Clerk of the King's Silver, to Clerk of the King's Silver whom all Fines are brought after they have been with the *Custos Brevium*. He also enters by way of Abstract in a Paper-Book, the Substance of the Writ of Covenant, according to which Notes all Fines are entered on Record in the Rolls of the Court every Term.

The Clerk of the Errors, who certifies Clerk of the Errors. into the Court of King's Bench, all Records upon Writs of Error returnable in that Court; he also makes all Writs of *Supersedeas*, *non molestando*, &c. granted for the Defendant, pending a Writ of Error.

The Clerk of the Treasury hath the Clerk of the Treasury. keeping of the Records of the Court, and makes up, and seals all Records of *Nisi prius*, takes Fees for all Searches in the Treasury, and makes all Exemplifications of Records lodged in the Treasury, and all Copies of Issues, Imparlances and Judgments, and of all Informations and Recognizances on Record in the Treasury, he is a Servant of the Lord Chief Justice, and removable at his Pleasure — The Officers before mentioned are for life.



Com. Pleas.

Clerk of the Seal.

The Clerk of the Seal seals all Writs, Judicial and Ministerial, and also of the Mesne Process, made by the Filacers, also Writs of Outlawry and Superfedeas, and all Patents, and Exemplifications, and takes Fees for the same.

Clerk of the Outlawry.

The Clerk of the Outlawries, is only a Servant to the Attorney General, for making out the *Capias utlagatum* after Outlawry, and the Attorney General's Name is to every one of these Writs.

Clerk of the Inrolments.

The Clerk of the Inrolments returns all Writs of Covenant upon all Fines whatsoever, as also all Writs of Entry, Summons and Seisin upon Common recoveries as Deputy on Record, appointed by the Court for all the Sheriffs of *England*; he also enrolls all Fines and Recoveries with every Writ and Entry belonging thereunto severally, and at the Request of the Party exemplifies the same.

### The Common Pleas.

**I**N the Court of Common Pleas, a Young Clerk will have but little to do in filling up Writs for the first Process, there being proper Officers for that Purpose as the Curfitors, Filacers, &c.

But

But before we proceed to such Things *Com. Pleas.* as will be his chief Employment; it may be proper to observe, That the Instructions for the first commencing a Suit in the Court of Common Pleas, is by *Precipe* and *Pone* which he must draw on Paper after the following Manner, and it serves both for the Original and the *Capias*; being delivered to the Filacer of the County.

The Original is the Warrant to every *Capias*, and the Return of the Original, is the *Teste* of the *Capias*. But if you set down the Return of your *Capias*, the Filacer of course takes Care for the rest.

## *A Special Precipe in Debt.*

*Quid ff.* **P**recipe C. D. nuper de Westm  
Gen (alias dia' if any) quod  
reddat A. B. 40 l. quas ei debet Et injuste  
detinet.

Cap ret' Crm Animar'.

*Note*, If it be upon a Specialty, as *Bond*, *Bill*, &c. You must draw your *Precipe* with an *alias dictus* as in the *Bond* or *Bill literatim*, or if it be upon an *Indenture* the *alias dictus* must be recited *literatim*, as in the *Indenture*

The Special *Capias* in Debt:

**G** Eorgius secundus Dei Gra' Mag' Brit'  
 Franc' & Hibernie Rex fidei defensor,  
 &c. Nunc Misd' salutem Precipimus tibi quod  
 capias C. D. nup de Westm in Com' tuo  
 Gen' alias dict', (&c.) si invent' fuer' in bal-  
 liba tua Et eum salvo Custod' ita quod has  
 Corpus ejus coram Justic' nris apud Westm  
 in Cro' animarum ad Respondend' A. B.  
 de p'ito quod reddat ei quadragint' Liby'  
 quas ei debet & injuste detinet ut dicitur Et  
 habeas ibi hoc bre T. R. Eyre apud Westm  
 ——— die ——— Anno rni nri primo.

*Vide antea 39.* Note, If the Action be bailable, and  
 you would hold the Defendant to Bail,  
 the Plaintiff must make an Affidavit of  
 his Debt, if it be 10 l. or above, accord-  
 ing to the Act 12 Georgii, and then the  
 Filacer will endorse the Sum mentioned  
 in the Affidavit on the Back of the Writ  
 in this Manner,

nd p 20 l. sup Sacc Quer'.

In a Writ you may have Four Defen-  
 dants, yet you can have but one Plain-  
 tiff, unless it be in a Joint Action.

If you would have several Defendants  
 in one Original, draw your *Precipe* thus.



Mod' ff. **P**recipe C. D. nup de Illing, Com. Pleas.  
 ton in Com tuo Gen (alias  
 dict' if any) quod reddat A. B. 50 l. Precipe  
 E. F. nup de (tc.) quod reddat (tc.) 40 l.  
 ret' Cro' Animarū.

The Special *Capias* thereupon.

**C**orgius (tc.) Vic Mod' salutem Preci-  
 pinus tibi quod Capias C. D. nup  
 de Illington in Com tuo gen alias dict'  
 (tc.) & E. F. nuper de (tc.) si invent'  
 fuerint in balliva tua Et eos salvo custod'  
 ita quod heas corpora eorum coram Justic'  
 nris apud Westm in Cro' animarū ad  
 respondend' pō A. de plico quod pō C. red-  
 dat ei 50 l. quas ei debet & injuste deti-  
 net & quod pōict' E. reddat ei quadragint'  
 libz' quas ei debet & injuste detinet ut  
 dicitur Et heas (as before).

Note, That all *Precipes quod reddat* are  
 fineable if above 40 l. to 100 Marks, 6 s.  
 8 d. from 100 Marks to 100 l. 10 s. and *antea p. 316.*  
 so on; for which see the Proceedings by  
 Original in the King's Bench.

If you would avoid the Fine draw a  
*Pone* for a *Capias* only in Debt after this  
 Manner.

*Pone* in Debt.

Mod' ff. si A. B. sec', tc. pone, tc. C.  
 D. nup de Illington in Com tuo Gen  
 aceriam in debito p 40 l. Ret Cro' Ani-  
 marū.

Z

The

Com. Pleas.

## The Capias thereupon.

Georgius (tc.) Vic' Widd salutem Precipimus tibi quod capias C. D. nup de J. in Com' tuo & Johem Doe si inveni' (as before) ad respondend' A. B. de p'ito quare vi & armis Elm' ipsius A. B. apud Westm' fregit' & alia Enormia ei intuler' ad g've dampnum ipsius A. B. & contra pacem nrm' Acetiam quod p'dict' C. respond' eidem A. secundum Cons' Cur' n're de Hco in quodam p'ito debi sup Demand quas dragint' Librar' Et heas (tc.)

If Alias or pluries Capias you say Precipimus tibi sicut alias (or pluries) tibi Precipertimus quod Capias, (tc.)

Pone in Case for Book-Debts, Promises, &c.

Widd n. Si A. B. fec', &c. pone C. D. nuper de (tc.) Acetiam in Case p' 20 l. rei in Cro' animarid

## The Capias.

Georgius (tc.) Vic' M. salutem Precipimus tibi quod Capias C. D. nup de J. in Com' tuo Gen' & Johem Doe si Inveni' (and so follow the Words in the last Capias) Acetiam quod p'dict' C. Respond' eidem A. leon' cons' Cur' n're de Banco  
in

in quodam plito transgr sup casu super Com. Pleas.  
assumpcion ad dampnu ipsius A. Vigint' Librarum Et Heas (tc.)

But if you have 3 or 4 Defendants,  
who are indebted in several Sums of 10 l.  
or above to the Plaintiff, both in Debt  
and Case, you must say.

Acetiam separatim ad respond eidem A.  
B. secund cons' Cur' nre de Banco (videt)  
pdict C. in quodam plito transgr super  
Casu sup assumpcion ad dampnu ipsius  
A. B. quadragini' libz' pdict E. in siti pli-  
to ad dampnu ipsius A. B. vigint' libz'  
Et pdict G. in quodm' plito debi super  
demand Vigint' Libz' Et Heas (tc.)

Pone in Trespas.

Midd Si A. B. fec, tc. tunc pone, tc. C. D. You are not  
hup de W. in Com' tuo Gen E. F. G. H. limited to  
I. K. L. M. de plito quare vi & armis Cln any Number  
ipsius A. apud W. freget' Et al Enormia of Defen-  
ei intuler' ad grave dampnum ipsius A. Et Clausum fre-  
contra pacem, tc. git.

Ret. tres Trin.

Or thus in Short.

Clausum freg' apud W. Ret. tres Trin.



The *Capias*.

Georgius &c. Vic M. salutem Precipimus tibi qđ capias C. D. nup de (re.) (as before) a die S<sup>c</sup>e Trin in tres septuagias ad respond A. B. de plito quare vi & armis Clausum ipsius A. apud W. freger & alia enormia ei inculit ad g<sup>r</sup>ave dampnum ipsius A. Et contra pacem n<sup>r</sup>m. &c.

Upon this Clausum fregit you may declare as you please, it being only to bring the Party into Court.

*Note*, If you have an Occasion to prosecute by *Qui tam* upon a penal Statute, some Filacers insist that 'tis fineable.

But upon a *Latitat* in the King's Bench, no Fine is demanded, and 'tis made only in *Trespas*. See before.

No *Qui tam* holds to Special Bail.

*Precipe* in Assault and Battery.

Londond ff. Si A. B. fec', &c. Done, &c. C. D. nup de L. Peoman de plito quare vi & armis ita ipsum A. apud L. Insult' fecit & ipsum verberavit vulneravit & male tractavit ita quod de vita ejus desperabatur Et alia enormia ei inculit ad grave dampnum ipsius A. Et contra pacem, &c.

Or

Or in Short.

De plito Transgr' & Insult' rei' tres  
Michis.

*Capias* in Assault.

Georgius, &c. Vic L. salutem Precipi-  
mus, &c. (as before) ad respondend' A. B.  
de plito quare vi & armis in ipsum A. ins-  
ult' fecit & ipsum A. apud L. & habet vul-  
neravit & maletractavit ita quod de vita e-  
jus maxime desperabatur & alia enormia ei  
intulit ad g've dampnum ejus Et contra  
pacem nr'am, &c. Et Heas (&c.)

If you would have Special Bail upon  
Assault and Battery, a Special Writ will  
not do it, tho' the Damages are laid ad  
dampnum 100 l. but the way is for the  
Plaintiff to make Affidavit of the Special  
Damages, and get a Judge's Hand to it,  
for inserting an *Acetiam* in the Common  
*Clausum fregit*; but a Special Writ may  
hasten the Trial.

*Precipe* in Covenant.

Widd' ff. Precipe C. D. nuper de J. in  
Com' p'dict' alias dictus (as in the Inden-  
ture)

Com. Pleas. ture) ad respond. A. B. de plico quod teneat ei conveniē int' eos fact' secundū vim formam & effectum quarundam Indentur int' eos confect' ret', &c.

### *Capias in Covenant.*

Georgius (&c.) Vic M. salutem Precipimus (as before) coram Justic' nris apud Westm in Crō animarum de plico quod teneat ei conveniē int' eos fact' secundū vim formam & effectum quarundam Indentur int' eos confect' &c. Et heas, (&c.)

If a Defendant lives within a Liberty which the Sheriff cannot enter upon a *Capias*, you may get the Filacer of the County, to make out a *Non Omittas* directed to such Liberty where the Defendant resides, without your having a *Capias* first from him.

### *The Non Omittas.*

Georgius, &c. Vic Suff. salutem Precipimus tibi quod non Omitt' ppe' aliquā Librat' Scti Etheldred in Comd tuo quin capias (Def.) &c. si invent' fuer, &c. (as in others) Et contra pacem nram Acetiam (if any, as in others) Et Unde tu ipse Mand' Justic' nris apud Westm ad certum diem jam pterit' quod Ball Librat' pdict' cui virtute hris nri tibi inde directi pcepisti quod caperet pdict' (Def.)



(Def.) null' tibi inde dedit respons' Et Com. Pleas.  
heas, &c.

*Precipe in Account as Receiver.*

**Surr' ff.**

Prec' C. D. nup de E. in Comd p'dict'  
Gen' quod reddat F. G. rationabilem Com-  
pund suum de tempore quo fuit Receptor  
denar' ipsius F. &c.

If a Bailiff, then as before, to——de  
tempore quo fuit Ballivus ipsius F. in E.  
&c.

If a Bailiff, and Receiver, then——de  
tempore quo fuit Ballivus suus in E. Et  
Receptor denar' ipsius F. &c.

*In Detinue.*

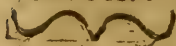
**Dom's ff.**

Prec' C. D. nup de E. in Comd p'dict'  
Yeoman, quod reddat F. G. un' Equam us-  
na' Uaccam (as the Case requires) precii  
10 l. quas ei injuste detinet, &c.

*In Annuity.*

**Dom's ff.**

Prec' C. D. nup de E. in Comd p'dict'  
Yeoman quod redd' F. G. 100 l. q' ei arretra  
sunt de quodam annuo reddit' 50 l. quas ei  
debet & injuste detinet, &c.



## In Ejectione Firmæ.

Midd II.

Si A. B. fec' &c. tunc pone, &c. C. D. nup de E. in Com' p'dict Yeoman Ad respond' p'fat A. B. de placito quare Vi & armis unid' Messuag' & vigin' ac' Terre cum p'tin in E. que F. G. p'fat A. dimisit ad termin' qui nondum p'cecessit intravit Et ipsum a firma sua p'dict' ejecit Et alia Enormia, &c. Ad grave dampnum, &c. Et contra pacem, &c.

But this is not used now, the Way being to deliver a Declaration to the Tenant in Possession, as you may observe among the Declarations afterwards.

A *Special Original* to continue an Action, &c. This by the Cursitor.

Georgius secund' Dei Gratia Reg' Brit' Franc' & Hibern' Rex fidei Defens', &c.

*Note,* When the *Teste* of a Writ will come before the Cause of Action, the

Uic' Midd' Salutem Si G. B. fecer te securum de clam' tuo pro' tunc pone p' vad' & salu' pleg' J. M. nup de Paroch' S'c'e Anne

best Way is to sue a General Writ, and afterwards a Special Original may be had to warrant the Judgment; but this is not intended of a Special *Capias* from the Filacer for Trial at the next Assizes, which is yet but *Capias*, and may want the Original.

*Memorand,* Writs returnable in London and Middlesex, and Declaration thereupon, now the Defendant must plead to Trial the same Term.

ne Testamentum in Com' tuo Geid quod si Com. Pleas.  
 coram Iustic' nostr' apud Testamentum in Crast'  
 Purif. beate Marie ostens' quare cum pdict'  
 Johan' duodec' die Febr' Anno Dom' Mil-  
 lesimo septingentesimo vicesimo septimo as-  
 pud paroch' Scti Egid' in campis indebitat'  
 fuisset p'lat' Georg' in quadragini' libz' le-  
 gal' monete hujus regni pro diversis bonis  
 mercimon' & merchandiz' eidem Johan' per  
 eundem Georg' ad special' instanc' & requi-  
 siton' ipsius Johan' ante tempus illud vendit'  
 & deliberat'. Et sic inde indebit' existens ip-  
 se pdict' Johan' in cons' inde postea scilicet eis-  
 dem die & Anno & loc' super se assumpsit &  
 eidem Georg' adiunc' & ibid' fidel' promissit  
 quod ipse pdict' Johan' easdem quadragini'  
 libz' cum inde postea requisit' esset bene &  
 fidel' solver' & contentat' vellet, cumqz eti-  
 am pdict' Johan' eodem duodec' die Febr'  
 anno supradict' in consideracon' quod pdict'  
 Georgius ad special' instanc' & requisit' ip-  
 sius Johan' ante tunc vendidisset & deliberasset  
 eidem Johan' p'usu Comit' M. diversas par-  
 cellas vini ad valenc' al' quadragint' libz'  
 sup' se Assumpsit & eid' Georgio adiunc' &  
 ibidem fideliter pmisit quod ipse pdict' Jo-  
 han' easdem quadragini' libras ult' mencio-  
 nat' cum inde postea requisit' esset similiter  
 bene & fidel' solvere & contentare vellet. P-  
 dict' tamen Johan' sparat' pmis' & assump-  
 con' suas pdict' in forma pdict' facit mini-  
 me curans sed machinans & fraudulent' in-  
 tendens eund' Georg' in hac parte callide  
 & subdole deciper' & defraudat' pdict' sepa-  
 rates denar' summas seu aliquem inde de-  
 nar' eidem Georg' nondum solvit nec ei p-  
 p' eisdem aliquant' contentabit licet ad hoc fa-  
 ciend'



Com. Pleas.

ciend' p'dict' Johān' postea scilicet eisdem die anno & loco supradict' & sepius postea p' eund' Georg' requisit' fuisse sed ill' ei hucusque solvere seu p' eisdem aliquant' contentare omnino recusavit & adhuc recusat ad dampnū ipsius Georg' centum librar' ut dicitur Et habeas ibi nomina pleg' & hoc breve Test' meipso apud Westm' 17 die Junij Anno Regni nostri primo.

Or 99 l. because to mitigate the Fine.

If you intend to go to Trial the same Term your Writ is returnable, then make a Special *Precipe* thus :

A Special *Precipe* in Case.

Midd' ff. Si A. B. fec', &c. pone C. D. nup de W. in Com' p'dict' Yeoman de p'lito quare cum p's C. (&c.) setting forth specially the whole Substance of your intended Declaration ad dampnū ipsius A. 50 l. ret' in Octab' S'ci Hil'.

The Special *Capias* thereupon.

Georgius secund' &c. Tunc Midd' saltem (as before) ad respondend' A. B. Gen' de p'lito quare cum (setting forth the whole Cause of Action, as in the *Precipe*) ad dampnum ipsius A. quinquagint' lib' ut dicitur. Et heas (&c.)

If the Defendant lives in the Country, as for Instance in *Berks*, and you would try the Cause in another County, to wit, in *Suffolk*, the Filacer of *Suffolk* will, upon

on your carrying him the following *Pre. Com. Pleas.*  
*cipe*, of Course make out a Common *Testatum* into the County of *Berks*, without  
 your first taking out a *Capias* in *Suffolk*.

*Suffolk*, ff. *Si A. B. fec', &c. pone, &c. C.* The *Precipe*.  
*D. nup de (ac.) acetiam p 40 l. sup assumcon*  
*Testatum superinde Vic' Berks Transgr'*  
*apud Bury. Rei' (ac.)*

### The Form of a Common *Testatum*.

*Georgius (ac.) Vic' Berks saltem (ac.)*  
*(as in others) ad respondend A. B. de plico*  
*quare vi & armis Clausum ipsius A. apud*  
*Bury Scti Edmundi (ac.) Et contra pacem*  
*nram Acetiam (ac.) ad dampnum ipsius*  
*us A. 40 libz' Et unde Vic' nri Suff.*  
*mand Justic' nris apud Westm' ad cert*  
*um diem jam pterit' quod pdict C. non*  
*est invent' in ballia sua cum testatum sic*  
*in eadem Cur' nostra quod pdict C. Latis*  
*tat Magatur & discurrit in Com' tuo Et*  
*Heas (ac.)*

But if you would go to Trial, the same  
 Issuable Term your Writ is returnable of,  
 but not in the County where the De-  
 fendant lives, then draw a Special *Precipe* for  
 a *Capias* into the County where you would  
 try the Cause, subscribing at the Bottom,  
*Testatum superinde Vic' Com' where the*  
*Defendant lives; carry this to the Fila-*  
*cer of the County where you would try*  
 your

Com. Pleas. your Cause, and he will make out the following Special Testatur,

Georgius, &c. Vic' Com' where the Defendant lives, Salutem, &c. as before, and setting forth the Cause of Action at large, ad dampnum ipsius A. 100 l. ut dicitur Et Unde Vic' noster Com' where you try the Cause, and so on as in a Common Testatum.

In all Cases where a *Capias* is Special, as in Debt, Covenant, Trespass, Case, &c. reciting the Cause of Action at large, it is fineable if 40 l. or above; And if the Special *Capias*, be made returnable the first Return, in *Trin.* and *Hill.* or the first or second in *Easter* and *Mich.* the Defendant must plead in four Days after the Declaration is delivered, if a Rule be given to plead, and a Plea demanded; but in a County Cause, the Court or a Judge will indulge the Defendant in further Time to plead, on the Defendant's agreeing to plead an Issuable Plea, and to accept of short Notice of Trial, for the next Assizes.

### Of Appearance and Bail.

**A** Appearance on Writ in the Common Pleas must be entered with the Filacer within four Days after the Return of the Process, otherwise the Plaintiff, on Affidavit of the Service of the Process, may enter an Appearance for



for the Defendant (according to the late *Com. Pleas. Act*) and proceed in the Action, as if such Defendant had entered an Appearance for himself, but upon a Writ of Privilege a Common Appearance ought to be entered with the Prothonotary, out of whose Office the Writ issued, and not with the Filacer.

## Of Bail.

**I**N putting in Bail in the *Common Pleas* *Vide in B. R.* before a Judge, when the Action is *what Actions* laid in *London* or *Middlesex*, you must *are bailable.* do it within four Days after the Return of the Writ, otherwise the Bail-Bond may be assigned, and if it be at the Suit of a privileged Person, the Prothonotary's Clerk, is to go with you before a Judge, for which you pay him his Fee, 3 s. 4 d. but if it be at the Suit of another Person, then the Filacer of *London* and *Middlesex*, or his Clerk, will attend the Judge with you to put in Bail.

If the Bail be taken before Commissioners in the Country, it must be done pursuant to the following Rules and Orders, and transmitted to one of the Judges, and signed by him in such Time, and afterwards filed with the proper Filacer in such Manner, as the following Rules direct, otherwise the Bail-Bond may be assigned.

## ORDERS

Com. Pleas.

**ORDERS** to be observed by Commissioners impowered by Commission, in Pursuance of an Act of Parliament, for taking Special Bail in the Country upon Actions and Suits depending, or to be depending in His Majesty's Court of Common Pleas at Westminster.

**F**irst, It is ordered, That before any Bail be taken by Virtue of the said Act, a true Copy of the Writ on Parchment, to which the Defendant is to put in Bail, shall be brought to the Commissioner before whom such Bail is to be taken; and thereupon the Recognizance or Bail-piece, shall be fairly drawn and engrossed on the said Parchment Copy, in this or the like Form, as the Case shall be, (*viz*)

A. B. Accusatus  
per defensum

Manucaptores Johanes  
Denn de Black-  
barnesly in Paroch  
de Settle in Com E.  
Gen & Ricardus Fenn  
de eadem Gen.

Capt & cognit decimo  
die Martii Anno  
Domini 1720. de bene  
esse coram me A. B.  
iud Commissionari.

Pars ipsa in  
20 l. uterque  
¶, in 10 l.

If the Defendant be not present, then the Bail are usually bound in double the Sum in the Writ, otherwise only single.

The

The Condition of which said Recognizance shall be to this Effect, *viz.*

**Y**OU [naming the Defendant if present] do acknowledge to owe unto the Plaintiff 20 l. and you [naming the Bail] do severally acknowledge to owe unto the same Person the Sum of 10 l. a-piece; to be levied upon your several Goods and Chattels, Lands and Tenements, upon Condition, That if the Defendant be condemned in the said Action, he shall pay the Condemnation, or render himself a Prisoner in the Fleet for the same; and if he fail so to do, you [naming the Bail] do undertake to do it for him.

Secondly, It is ordered, That the Affidavit of the due Taking of every such Bail, shall be made either before some Judge of the Common Pleas, to whom the Bail shall be transmitted, or before some Person who shall have Power to take Affidavits in Matters and Causes depending in the said Court.

Thirdly, It is ordered, That all Bails taken by any Commissioner within the Distance of forty Miles from the Cities of London and Westminster, shall be transmitted to the Lord Chief Justice of the Court of Common Pleas, or to one of the Justices of the said Court, within Ten Days

*Bail taken within forty Miles of London, transmitted in Ten Days.*



Com. Pleas. Days after the Taking thereof; and all  
 Bails taken by any Commissioner above  
 If above for the Distance of forty Miles from the said  
 ty Miles, in Cities of *London* and *Westminster*, shall be  
 twenty Days. transmitted within twenty Days after the  
 Taking thereof, unless all the said Justices  
 shall be in their Circuits, and then as soon  
 as any of them shall be returned to *London*  
 out of his Circuit.

Fourthly, Also every Commissioner is  
 to have a Book kept purposely for entring  
 exactly the Names of the Defendant and  
 his Bail, and of the the Plaintiff, as it is  
 in the Bail-Piece, and the Time of the  
 Taking thereof, and the Name of him by  
 whom such Bail shall be transmitted.

Fifthly, It is further ordered, That the  
 Plaintiff's Attorney shall be at Liberty to  
 repair to the Commissioner's Book for the  
 Names of the Bail, to the End that they  
 may enquire of the Sufficiency of them;  
 and if they are found insufficient, they  
 may except against them within twenty  
 Days after the said Bail is transmitted, and  
 Notice to the Plaintiff or his Attorney of  
 the Taking thereof: And in that Case  
 the Defendant must either put in  
 better Bail, or the Cognizors of such  
 Bail must justify themselves in open  
 Court, either by Affidavit taken before  
 such Commissioner that took the said  
 Bail, or by Oath made in Court,  
 or

Plaintiff may  
 except a-  
 gainst Bail  
 within twen-  
 ty Days af-  
 ter.

or before one of the Judges of the said Com. Pleas.  
Court.

Geo. Treby.  
Edw. Nevill.

John Powel.  
Tho. Rokeby.

By a Rule made *Hill. 6 Georgii*, It is further ordered, That all Bail-Pieces, taken within such respective Distance, as is above directed, shall be transmitted within the Time above limited, and after such Transmission, shall be forthwith deliver'd to, and filed with the proper Officer; to be entered upon Record, or otherwise it shall be as no Bail; and the Plaintiff is at Liberty to proceed on the Sheriffs Bail-Bond, as if no such Bail were ever put in. And the Defendant in Case he be admisable to plead to the original Action, shall not be admitted so to do, unless he first pay the full Costs to the Plaintiff for the Prosecution on the Bail-Bond; and plead as of the Time when the Bail should have been duly entered.

Bail-piece to  
be filed.

If the Defendant does not put in special Bail (when required by these Rules) you may get the Sheriff to assign over his Bond, and take out the *Capias* upon it, a Copy of which you personally serve on the Defendants.

### *Of Declarations.*

THE next Thing is to provide for the Declaration, several Forms whereof you will find at the latter End of this Treatise.

A a

If

Com. Pleas. If you arrest the Def. and cannot find his Attorney, you may deliver the Declaration to the Def. himself; or you may leave it in the Office, but it is requisite you should give the Defendant or his At-

*Vide the late Rule 13 Geo. Regis.* If the Plaintiff appeared for the Defendant, you have left such Declaration in the Office. — *In Case, Upon Three Narr's* you pay the Prothonitary 6s. and he will return you 1s.

If a Plea be left in the Office, you cannot charge Cop', Exit', but must have your Allowance from the Prothonatory upon your Signing the Record of *Nisi Prius*.

*Per Reg' Cur' Hill. 9 Anna Regina.* If a Writ be returnable the first, or any other Return in any Term, the Plaintiff hath Liberty till the End of the next ensuing Term to deliver his Declaration to the Defendant's Attorney, or of leaving the same in the Office;

and the Defendant's Attorney having entered his Appearance with the proper Officer, as of that Term in which the Process is returnable, and at the End of the ensuing Term or in Four Days after the End thereof, having given a Rule to declare in the proper Office, and called on the Plaintiff's Attorney, if he can be found; the Defendant at any Time in the Vacation of such ensuing Term (after the Rule for declaring is out) may sign his Non pros' for want of a Declaration, and not afterwards, and the Plaintiff shall not without Leave of the Court have any longer Time to declare in, than as aforesaid, other than the Time to be limited by the Defendant's Rule.

Plaintiff hath till the End of the ensuing Term to declare.

Otherwise Defendant may in the Vacation of such ensuing Term, sign a Non pros'.



Term. Mich. 1<sup>o</sup> Georgij 2di Regis.

**T**O establish the Practice of this Court, upon the late Act of Parliament, for preventing frivolous and vexatious Arrests: Stat. 12<sup>o</sup> Geo. Cap. 29.

*It is Ordered, That from and after the last Day of this present Term, in all Causes where a Copy of the Process of this Court is served up on any Defendant, or Defendants, and an Appearance is entered for such Defendant, or Defendants, by the Plaintiff's Attorney, pursuant to the said Act, the Plaintiff's Attorney, in such Case, shall leave a Copy of the Declaration in the Office, and likewise give Notice thereof to the Defendant or Defendants, by delivering an English Notice, written in Secretary Hand, to such Defendant, or Defendants, or by leaving the same at the last, or most usual Place of Abode of such Defendant or Defendants, signifying the Nature of the Action, at whose Suit it is prosecuted; and in whose Office such Declaration is left: And that, in case of special Writs, returnable the first Returns of Hillary and Trinity Terms, and the first or second Returns in Easter and Michaelmas Terms, such Defendant or Defendants should take Notice, that unless such Defendant or Defendants plead to such Action within four Days after the Appearance Day of the Return of such Writ: and in Case of a common Capias, or any other special Writ; within the first four*

*After the last Day of Michaelmas Term, where the Plaintiff appears for the Defendant, a Copy of the Declaration shall be left in the Office, and an English Notice in Secretary, deliver'd to the Defendant, or left at his last or usual Abode:*

*Signifying the Nature of the Action; at whose Suit prosecuted; and in whose Office the Declaration is left; and that unless such Defendant (in Case of special Writs returnable the first Return in Hill. or Trinity, or the first or second Return in Easter or Michaelmas Term) plead in four Days after the Appearance Day of the Return, Judgment will be entered by*

A a 2

Days Default.

Com. Pleas.

*But in Case of a common Capias, or of any special Writ not returnable as aforesaid) within the first four Days of the next Term, Judgment will be enter'd by Default.*

Declaration deemed well delivered from the Time of such Notice.

And if the Defendant does not plead in Time (a Rule being given to plead) the Plaintiff may sign Judgment. Notice in Writing of executing a Writ of Inquiry given to the Defendant, or left at his last or usual Abode, sufficient.

After the last Day of this Term, the Rule of Trinity Term discharg'd.

*Days of the next Term; Judgment will be entred against such Defendant or Defendants by Default.*

*And from the Time of giving such Notice as aforesaid, such Declaration shall be deemed well deliver'd to such Defendant or Defendants, and not otherwise.*

*And in Case such Defendant or Defendants, after such Notice given, do not plead by the Time the Rules for Pleadings are out, the Plaintiff in such Case may sign his Judgment (a Rule to plead being first given) without any other or further calling for a Plea, and thereon give Notice of executing his Writ of Inquiry, either by delivering Notice in Writing to such Defendant, or Defendants, or by leaving the same at the last or most usual Place of Abode of such Defendant, or Defendants; which shall be a sufficient Notice to such Defendant or Defendants of the Time of Executing such Writ of Inquiry.*

*And it is further Ordered, that from and after the last Day of this present Term, the Rule made the last Trinity Term, to establish the Practice of this Court upon the said late Act of Parliament shall be discharg'd.*

R. Eyre,  
Rob. Price,  
Alex. Denton,  
S. Cowper.

## Of Pleas.

**B**Y the Course of the Court upon a Common Writ, the Defendant is not obliged to answer the same Term the Writ is returnable of; but may have an Impar lance or Time to plead until the subsequent Term; in which Term, he must plead, before the Rules to plead are out; otherwise the Plaintiff may sign Judgment, if a Plea has been demanded. But if it be a Country Cause, the Defendant may, on Application to the Court, or a Judge, obtain longer Time to plead, on his Agreeing to plead an issuable Plea, and receiving Notice of Trial, so as the Plaintiff be not delayed, but may try the Cause the next Affizes.

And though the Plaintiff has signed his Judgment after the Four Day Rule is out, the Court or a Judge will, (it being a Country-Cause) on the Defendant's Paying the Cost, set aside the Judgment, and give him a reasonable Time to plead an issuable Plea.

These Rules to plead must be entered in the Prothonatory's Office, where the Plaintiff's Attorney declares in, by the Secondary of the same Office, for which he is paid 16 d.



Com. Pleas.  
Of Impar-  
lances.

And *note*, There are two kinds of Imparlances, the one General, and the other Special, as you may find hereafter amongst the Declarations.

After a General Imparlance, the Defendant cannot plead in Abatement to the Writ, Excommunication or the like, nor any Privilege as a Privileged Man of another Court.

Vide Instr.

Cler. 3d Part.

But many Pleas may be pleaded after a Special Imparlance, which will not be allowed after the General.

If the Defendant prays a Special Imparlance, he pays the Plaintiff's Attorney 2 s. for the Entry.

It is said, That when your Declaration is upon a Bond, if the Defendant's Attorney upon receiving the Declaration, do not crave that the Condition of the Bond may be entered with the Imparlance, and also pay for the same; then he is debarr'd from pleading Conditions performed at any Time after, without moving the Court, and paying 5 s. to the Judge's Box: But if he insist upon it, he need not plead till he have it.

*Note*, That the Defendant upon pleading any General Issue, may after a Rule given, nonsuit the Plaintiff (if he do not enter his Issue) and get Costs signed by the Prothonotary, and enter up Judgment, *Quia Quer non junxit in exitu nec ulterius Proas est breve suum poict, &c.*

See more of this hereafter.

*Note,*

Note, The Secondary gives Rules to de-Com: Pleas. declare and plead every Day for four Days after the Term; and to reply and rejoin 16 Days after.

Many Times where the Plaintiff's Action is just and right, the Attorney for the Defendant will yield to a Judgment, either by way of *Non sum Informatus*, or Confession; so that the Plaintiff will stay Execution against the Defendant until such a Time as both the Attornies shall agree upon: And this is a good Way to save the Defendant's Person and Charges.

It is done after this Manner upon the Declaration.

Somers<sup>r</sup> ff.

Armstrong p Radford,

Johnson p Bayly.

*non sum informatus ita quod cesset ex-  
co usque Term Trin.*

p Willm Johnson.

Upon which Judgment, you may get Costs taxed by the Prothonotary.

But if the Attorney for the Defendant do plead unto the Action, then you may join Issue, and go to Trial by *Nisi prius* at the next Assizes for the County: Of which more hereafter.

But our Young Clerk's first Business being chiefly in making up Issues and Records, and entring up Judgments, we will next set down some Things concerning them.

## Of making up Issues.

**N**O T E, The *Common Pleas* use no *Memorandums* (as does the *King's Bench*) unless in Special Cases (as in a Bill against an Attorney.)

But having written the Prothonotary's Name and the Term the Issue is made up, they begin with the Declaration in Manner following:

Cooke.

Termin primo Georgii secundi Regis.

Soms' ff. **A.** B. nup de C. in Cond p.  
dict Yeoman attach fuit  
ad respondend D. E. de plito Tngt sup  
Casum &c. Et unde idem D. p F. G. Attorn  
suum queritur Quare cum, &c. (verbatim  
as in the Declaration) Et inde pduc sec  
tam, &c.

Note, In Debt, Covenant, Account,  
Annuity, Detinue and Replevin, the  
*Common Pleas* Form is *summonitus fuit*  
*ad respondend*; and in Case, Tres-  
pass, Trover and Ejectment, the  
Form is *attachiatus fuit ad respon-*  
*dend*, (&c.)

Having



Having written the Declaration, you must begin a new Line to enter your Issue; for observe, That the *Common Pleas* doth not now continue any Imparlance in their Entries, but when it is against an Attorney (though at the Bottom of their Declaration they usually give a *Li. Lo.* to the next Term, when they deliver them to the Defendant's Attorney, as you may see amongst the Declarations).

## Non Assumpsit.

Et p<sup>o</sup>dict A. B. p H. J. Attorn suum  
 vend & defend v<sup>o</sup>m & insur quando, &c. *Non assumpsit*  
 Et dicit quod ipse Non assumpsit super *pleaded.*  
 se modo & forma put p<sup>o</sup>dict C. sup<sup>o</sup>ius  
 solus eum queritur Et de hoc pon se sup  
 P<sup>o</sup>riam & p<sup>o</sup>dict C. sicut I<sup>o</sup> pcept est Wic  
 quod Venire fac' hic a die S<sup>o</sup>c Trinitas  
 tis in tres Septimanas duodecim, &c. p  
 quos, &c. Et qui nec, &c. ad Recogn<sup>o</sup>, &c.  
 Quia tam, &c.

## Non Cul' in Case.

Et p<sup>o</sup>dict A. p (&c.) quando, &c. dicit *Non Cul.*  
 quod ipse in nullo est Culpabilis de p<sup>o</sup>  
 missis sup<sup>o</sup>ius ei impo<sup>o</sup>it put p<sup>o</sup>dict C. sup<sup>o</sup>ius  
 solus eum queritur Et de hoc pon se  
 sup P<sup>o</sup>riam Et p<sup>o</sup>dict C. sicut Ideo pcept  
 est Wic', &c. as before.

Note,

Com. Pleas.



Note, If in Trespass, then Et dic' quod ipse in nullo est Culpabilis de Transgr' p'dict' put (et. as above.)

In Assault.

De Transgr' & Insult' p'dict', et. —

Nil debet per Patriam.

Nil Debet. Quando, et. Et dicit quod ipse non debet p'sat A. B. p'dict' 20 l. nec aliquam denar' suum in forma qua idem A. superius solus eum narravit Et de hoc pon' se sup P'riam Et p'dict' A. alit' Ideo, et. (ut in al.)

Non est factum to a Bond.

Non est Factum. Quando, et. Et dicit quod ipse de debito p'dict' virtute scripi' p'dict' onari non debet quia dic' quod scriptum illud non est factum suum Et de hoc, et. (ut in al.)

By an Executor.

Et dic' quod scriptum p'dict' non est factum p'dict' A. B. Testatoris Et de hoc pon', et. (ut in al.)

To



... To a Bill. ...

Et dic' quod ipse de debito p'dia' virtute  
Bill' p'dia' onerari non debet Quia dic' qd  
Villa illa Non est factum suum. Et de hoc,  
cc.

And so of an Indenture *Mutatis mutandis*.

See for more Issues toward the latter  
End, next after the Declarations.

*How to make up the Record.*

**M**Ake a Margent of near an Inch  
broad, then near the Top of your  
Piece of Parchment write the *Placita* in  
the same small Hand you write the rest  
of the Record; but the Word *plita*, as  
also the first Word of the Plea, *Rept*,  
cc. makes a Record seem well.

*Plita apud Westm coram Robto Cyze  
Mil & Sociis suis Justic' Dni Regis de  
Banco de Terminis S'ce Trinitatis Anno  
Regni Dni Georgii secundi Dei Gratia  
Magni Brit Franc' & Hibnie Regis Fidei  
Defens, cc. primo.*

*Robto. . . .*

Then



Com! Pleas.

Then beginning a new Line near half an Inch Distance, enter the Declaration as follows:-

Somus II. **A.** B. nup de C. in Com p.  
 dict' Gen attach fuit ad  
 respondens D. E. de plito Transgr super  
 Calum, &c. Et unde idem D. p F. G. Ac  
 torum suum queritur quare cum, &c. —

To the End of the Issue.

Quia tam, &c.

Nota, The Common Pleas write their Pleas but once (except Death or Change of Chief Justice, or upon an old Record) so that 'tis good to leave an Inch betwixt the Issue and *Furata*, and begin the *Furata* within an Inch of the Issue thus:

**Jurata:**

Soms' II. Jur' int' D. E. Quer' & A. B.  
nup de C. in Com' p'dict' Gen' de placito  
Trangr' sup' Calum' ponitur in resp'm hic  
usque a die S'ci Michis in tres Septimanas  
Nisi Justic' D'ni Regis ad Assisas in Com'  
p'dict' capiend' assign' p' form' Statut', &c.  
die (the Day of the Assizes) apud (the Place  
where

where the Assizes are held) in Com<sup>o</sup> p<sup>o</sup>ict Com<sup>o</sup> Pleas  
 prius ven<sup>t</sup> pro defectu Jur<sup>is</sup> Et quia null<sup>us</sup>  
 ven<sup>t</sup> Jo<sup>h</sup> Vic<sup>us</sup> heat corpora, &c. Et sciend<sup>um</sup>  
 est quod v<sup>er</sup>o inde Justic<sup>us</sup> hic in Cur<sup>ia</sup> isto  
 eodem Termino deliberat Deputat<sup>us</sup> Vic<sup>us</sup>  
 Com<sup>o</sup> p<sup>o</sup>ict in forma Juris erequend<sup>um</sup>, &c.

*Jurata* upon an Issue taken by the King's  
 Attorney General, as in *Quare Impedit*,  
 thus:

Berks<sup>us</sup> ff. Jur<sup>is</sup> int<sup>er</sup> Dom<sup>um</sup> Regem p<sup>er</sup> Phi-  
 lippum Por<sup>ter</sup> Attorn<sup>um</sup> vic<sup>us</sup> D<sup>omi</sup>n<sup>i</sup> Regis  
 nunc General<sup>is</sup> Quer<sup>it</sup> & J. B. Cl<sup>er</sup>icum de  
 p<sup>re</sup>lit<sup>o</sup> Quare impedit ponitur in respectu,  
 &c. (as in others.)

If your *Jurata* be in London, then say.

London ff. Jur<sup>is</sup>, &c. (as before) ponit<sup>ur</sup>  
 in resp<sup>ect</sup>u hic usque (the very next  
 Day after the Sittings, if in Term; but  
 if not in Term, then to the first Return-  
 Day of the next Term) as a die S<sup>an</sup>c<sup>t</sup>i Mi-  
 chis in tres Septimanas. Qui Rob<sup>ert</sup>us Cy<sup>ri</sup>l<sup>us</sup>  
 Hil<sup>l</sup> Capital<sup>is</sup> Justic<sup>us</sup> D<sup>omi</sup>n<sup>i</sup> Regis de Wanco  
 hic assign<sup>at</sup> p<sup>er</sup> form<sup>am</sup> Stat<sup>uti</sup>, &c. die (the Day  
 of the Sitting) \* apud Guildhal<sup>l</sup> London<sup>is</sup>  
 prius ven<sup>t</sup>, &c.) (as before to) deliberat<sup>ur</sup>  
 A. B. Ar<sup>ch</sup> (naming the Under-Sheriff's  
 Name) Deputat<sup>us</sup> Vic<sup>us</sup> London<sup>is</sup> in forma  
 Juris erequend<sup>um</sup>, &c.

\* If in *Middlesex* you say, Nisi, (&c.)  
 apud Westm<sup>onasterium</sup> p<sup>o</sup>ict in Magna Aula p<sup>re</sup>li-  
 torum

Com. Pleas. totum vulgariter nuncupat Westminster-  
Hall ibm (et.) prius veni, &c.

When your Record is made up, and before it is sealed, you must enter your Issue on a Roll from the Prothonotary, or at least must thereon make an *Inci-pitur* of the Issue, and then carry the Record and the Roll to the Prothonotary, who will sign your Records upon paying him for the Issues; and if you have Occasion will give you back the Roll: Then you must carry your Record to the Clerk of the Treasury to be sealed, and you must make out Warrants of Attorney to carry with it, after this Manner, (*viz.*)

Warrant of  
Attorney.

Soms ff. D: E. pō lō suo F. G. Attoꝝd  
suum vsus A. B. nuper de C. in Com' pō  
Gen de placito Transgr sup Casum.

ff. A. B. nup de C. in Com' pōict' Gen  
pō lō suo H. J. Attoꝝd suum versus D. E.  
de pōito pōict'; and so of the rest. You  
must give the Warrant to the Clerk of the  
Warrants there, who will sign your Re-  
cord; then you must give it to the Clerk  
of the *Jurats* to examine, and then to  
Mr. *Maidstone* to sign, and then to his  
Man to seal.





Of Venires.

The Form of a *Venire Fac'* in Com' Banco.

**G**regorius secundus Dei Gratia Magus  
 Britann' Franc' & Hibernie Rex Fidei  
 Defensor, &c. Vic' S. saltem Precipimus  
 tibi quod Venire Fac' coram Justic' nris  
 apud Westm' a die S<sup>c</sup>e Trinitat' in tres  
 Septimanas duodecim liberos & legales hoies  
 de Corpore Com' tui quorum quilibet ha-  
 beat decem Libz' Terr' Tenantorum vel Red-  
 dit' p Annum ad minus p quos Rei veris-  
 tas melius sciri poterit Et qui nec D. E.  
 Quer' nec A. B. nuper de C. in Com' tuo  
 Gen' \* aliqua affinitate atting' ad faciend' \* *Note, If it*  
 quandam Juram' Prius inter Partes pdict' be upon a  
 de plito Transgr' (as the Cause of Action Specialty,  
 is) Duta tam idem D. who first takes If you must put  
 sue) quam pdict' A. inter quos inde Contenz' in alias dict'.

to est posuer' se in Juratam ill' Et habeas  
 ibi nota Jur' Et hoc breve Weste R. Cyre  
 apud Westm' 24 die Maii anno Reg' nostri  
 primo.

You must sign this *Venire facias* with  
 the Prothonotary, and pay him 1 s. 4 d.  
 and this may be done before your Re-  
 cord is sealed.

Where

Where Attorney General takes Issue.

In *Quare Impedit*, &c. make it thus.

Georgius, &c. (usq; sciri poterit) Et qui  
A. B. Clico nulli affinitat atting' ad fac'  
quandam Jur' p'ie int' Nos & p'dia' J.  
de p'tito quare Impedit quia tam Nos  
quam p'dia' J. int' quos inde contentio est  
posuimus nos in Jura ill' Et heas ibi  
noia Jur' & hoc h're Teste R. Cyre, Mil'  
&c.

*Note*, You may move the Court in *Quare Impedit* on the King's Part for a Special Jury, viz. That the Sheriff attend the Prothonotary with the Book of Freeholders, that the Prothonotary in the Presence of the Attorney or Solicitors of both Parties may name 48, from which either Party may abstract 12, and the Sheriff to impanel the remaining 24, Et quod nulli fiat Calumpnia p' defectu hundredorum, &c.

If you doubt in this Case, whether a sufficient Number of the Panel will appear to make full Jury, &c. Then you must draw up a Warrant, or rather Petition for a *Tales* in Court-Hand upon Parchment after this Manner, (*viz.*)

Werk's H.

Philippus Wozk Mil Attorn Domini  
Regis nunc General qui p eodem Domi-  
no Rege in hac parte sequitur pro Dño  
Rege pet Tales de Circumstantibus hic  
per Cur concedi pro triaōn Erit int die  
Dom Regem & J. B. Clicum de plico  
Quare Impedit ne Jur in hac parte capi-  
end remain p defectu Jur, &c.

Phil. York.

To this you must get the At-  
torney General's Hand, the }  
Fee of which is 9 s. 8 d. }

## The Form of the Habeas Corpora.

**G**orgius secundus Dei Gratia Mag<sup>s</sup>  
Brit' Franc' & Hibnie Rex Fidei  
Defens', &c. Nic S. latrem Precipim<sup>9</sup> tibi  
quod heas coram Justic nostris apud  
Westm a die Scti Michis in tres septia-  
nas vel coram Justic nris ad Alias in  
Com tuo Capiend assign p formam Sta-  
tut inde pvis a die (the Day the Assizes  
are held) apud, &c. (the Place where) in  
Com tuo prius ven Corpora A. B. C.  
D. E. F. (naming the Jury returned on  
the Panel with their Additions Jur sunt  
in Cur nra coram Justic nris apud Westm  
int D. E. Quer & A. B sup de C. in Com  
tuo Gen Def. de plico Transgr ad fa-  
ciend'

B b



Com. Pleas. ciens Jurata ill Et heas ibi hoc hre  
 ~~~~~ Teste R. Cyze apud Westm 12 die Ju-  
 nii And reg nri primo.

This *Habeas Corpora* you may bespeak at Mr. *Bulstrode's Office*, which is kept at the Examiner's Office at the Rolls, or else you may fill it up your self, and carry it thither with your *Venire*, and his Clerk will examine it and sign it, and you must leave your *Venire* and Panel with him to be filed.

Next seal your *Habeas Corpus*, (which may be done before or after your Record is sealed.)

See in the *King's Bench* for a *Distringas* when in *London* or *Middlesex*, which will instruct you how to put your Day and Place in a *Habeas Corpora* for either of their Places (*mutatis mutandis*.)

In Prohibition either Plaintiff or Defendant may carry down the Record.

* Note, If you carry in your old *Habeas Corpora*, you save 13 d.

Note, Formerly if your Record was not tried the first Assizes, then you might make out a *Plur' Habeas Corpora* by the old one, and give the old one into the Office, who would sign your *Plur' Habeas Corpora*; and you could not in such Case fill up a new *Habeas Corpora* upon a new Panel, for then it was said to be Error; but this is altered by a late Act of Parliament; for which see before in the *King's Bench*. * You may carry your old Record, or Copy, in such Case, to the Clerk of the Treasury, to be examined by the Roll, which if done in the Term-Time, will save Fees; for if it be out of Term, he will be

be paid for the Keys, and for going down *Com. Pleas.* to *Wistminster* to examine it, &c. and he will make you a new Record (if your old one be lost) or else alter your old one, and seal it anew. The *Habeas Corpora* must be delivered to the Sheriff at the Assizes to return, and then it and the Record must be delivered to the Judge's Marshal.

Subpœna.

The Form of a *Subpœna ad Testificand'.*

Corpus secundus Dei Gratia, &c. A. B. C. D. E. F. & G H. salutem Prescripimus vobis & cuilibet vrm firmit' injungend' quod omnibus aliis ptermittis & excusatione quacumq; cessant' sitis in ppr' pson' v'ris coram Justic' n'ris ad Q'lias' apud (the Place where the Assizes are held) in Com' S. die (the Day when the Assizes are held) p' futur' tenend' ad testificand' & veritat' dicend' in quadam Materia Controversie in Cur n'ra coram Justic' n'ris apud Westm' penden' indeterminat' int' D E. Quer & A. B. nup de C. in d'co Com' S. Gen' Def. de placito trange Et hoc nullatenus omittatis nec aliquis vrm' omittat sub pena cufuslibet vrm' centum Lib' Teste W. Cyze (ut in af.)

Com. Pleas.

If in *London*, say, coram R. Eyre Mil Capital Justic' Cur nre de Banco apud Guildhall London die, &c. (the Day of Sittings) ad testificand, (&c.)

If in *Middlesex*, say, coram R. Eyre Mil &c. die apud Westm' in magna Aula p'tozum ibm vulgarit nuncupat Westminster Hall, ad testificand, &c.

See before in the *King's Bench* for a Spa' ad testificand sur breve de inquir de dampnis (which may serve for the *Common Pleas* mutat' mutandis.) Your *Subpœna* and *Tickets* must be made out soon enough to be served on the Witnesses to attend the Trial.

A Subpœna Ticket.

Mr. A. B.

If for *London* or *Middlesex*, then before Sir R. Eyre Kt. mutat. mutandis.

BY Virtue of a Writ of *Subpœna* to you directed, and herewith shewed unto you, you are personally to be and appear before His Majesty's Justices of Assize on ——— next, being the ——— Day of ——— at ——— of the ——— Clock in ——— noon of the same Day, at the Court then to be holden at ——— to testify the Truth according to your Knowledge, in a certain Cause now depending and then and there to be tried between D. E. Plaintiff,

tiff, and *A. B. Gent.* Defendant in a Plea *Com. Pleas.*
of Trespafs on the Part of _____

_____ And thereof you are not
to fail on Pain of one Hundred Pounds,
Dated the _____ Day of _____
in the first Year of the Reign of our
Sovereign Lord George the Second, by
the Grace of God, of Great Brittain,
France and Ireland, King, Defender of the
Faith, &c. *Annoque Dom. 1727.*

See before in the *King's Bench* Prece-
dents, for a Ticket upon a *Spa* ad tes-
tificand sur bre de Inquir de dampnis,
and for Notice of Trial, and of not pro-
ceeding after Trial.

*How to make up the Rolls, and enter Judg-
ment in the Common Pleas.*

Make a Margent of an Inch, then rule
your first Line about a Span from
the Top of the Roll, and then enter your
Declaration and Issue, or other Plead-
ings.

Somerset.

*A. B. nup de C. in Com' p'dict' Gen-
sum' fuit ad respondend G. F. de p'lito quod
reddat ei centum Libras, &c.) (And so on
Verbatim, as in the Declaration, to the
End thereof) Et inde producit Sextam, &c.
(And so consequently the rest of your*

Com. Pleas. Pleadings and Issue, beginning a new Line
 at each Plea, Replication, &c.)

Note, As to Judgments you enter only such as are had without Trial; for the Clerk of the Judgments enters the other.

These Judgments without Trial are by *Nil dic*, *Cogn* Actionem, and *Non sum Informatus*.

And therein *Note*, After you have entered your Declaration (as before) then beginning a new Line, write,

Nil dicit in
Case without
Assumpsit.

Writ of In-
 quiry of Dam-
 ages a-
 warded.

Note, in *Case*
 your Stamp
 is only 2 d.
 because the
 Judgment is
 after the
 Writ of In-
 quiry.

* *Assumpsit.*

Et *poict* A. B. (naming the Defendant)
 p C. D. *Attorn* suum veni & defend vim
 & injur quando, &c. Et nihil in barram
 sive *pclusionem* Actionis *poict* E. dicit p
 quod idem E. remanet verlus *psat* A. inde
 indefens' Ob quod idem E. dampna sua
 occone *pmis*' *Blus* *psat* A. recuperare debeat
 Set quia nescitur que dampna *poict* E. su-
 stinuit occone *pmis*' ideo *pcept* est *Wic*' qd
 p sacram' duodecim pboz & legium hominu
 de Com' *poict* diligent inquirat que dampna
poict E. sustinuit tam occone *pmis*' quam
 p *mis*' & *custag*' suis p ipm' circa *lecta*
 sua in hac parte appoi' Et inquisitione
 quam inde fecit *Wic*' constare faciat *Iustic*'
Dni Regis apud *Westm*' a die *Sci Mi-*
chis in tres *Septianas* sub sigillo, &c. &
 sigillis &c.

* *Note*, If it be upon an *Assumpsit*,
 then you say, occone non *pformatio* *pmis-*
sion & *assumpcion* instead of occone *pmis*';
 &c.

Nil dicit in Trespass.

You write as above *Verbatim*, only for the Words (occone pmiss') you must say (occone transgr pdict.)

In Assault.

If in Assault, then (occone transgr & insult pdict') If in Assault and Imprisonment, (occone transgr insult & imprisonamenti, pdict.)

In Covenant.

Ut supra usq; ——— Ob quod idem E. dampn sua occone fracconis Conventionis pdict & lrus pstat A. recuperare debeat sed quia nescitur, &c. (ut pr' antea.)

Nil dicit in Debt.

Ut supra ——— reman & lrus pstat A. Here set inde indefens' Jo consideratid est quod pdict down the E. recuperet versus pstat A. Dehm suid p Day Judg- dict & Dampna sua occone detencionis De, ment was signed. hi ill ad quadraginta Solidos eidem quer ex assensu suo p Cur hic adjudicat Et pdict' A. in mia, &c.

B b 4

Mia.
Nil'

Com. Pleas.

Nil dicit in Ejectment.

A Writ of
Inquiry a-
warded.

A Writ of
Possession a-
warded.

Ut supra usque ——— indefens' Jo
consideratum est quod p̄dict' E. recuperet &
suis p̄lat A. Terminū suū p̄dict' de & in
Manerio & Tenementis p̄dict' (according
to the Parcels in the Declaration) cum p̄
tū adhuc ventur' & dampna sua occōne trans-
gr' & Ejectōnis illi' Sed quia nescitur que
dampna p̄dict' A. sustinuit occasione t̄nscr'
& Ejectōnis p̄dict' p̄cept' est Wic' quod p̄
Sacram' duodecim p̄borum & leḡtium hominū
de Com' suo p̄dict' diligent' inquiret que
dampna p̄dict' E. sustinuit tam occasione
transgr' & Ejectōnis p̄dict' quam p̄ misis
& custag' suis per ipsum circa sedam suam
in hac parte appositis Et Inquisitionem
quam, &c. Wic' constare fac' hic a die
Sancti Michis in tres Septimanas sub si-
gillo, &c. Et sigillis, &c. Idem dies dat
est p̄lat E. (naming the Plaintiff) hic, &c.
Et sup hoc idem E. pet' breve Domini Res-
gis Wic' Com' p̄dict' dirigend' de habere
faciend' et possessionem Terminū sui p̄dict'
adhuc ventur' de & in Manerio & Tenes-
mentis p̄dict' cum p̄tū Et ei concedit re-
cornabile hic ad p̄lat Terminum, &c.


See for the Writ of Possession after.

Nil

Nil dicit cum remitt' Dampn'.

If your Judgment be with a remittit dampna, then after the Words inde indefens', add *Ita cons' est quod p'dict E. recuperet s'us p'fat A. terminu suu p'dict de & in Manerio & Tenentis p'dict cum p'ciu ad huc ventur' & dampna sua occone Transgr' & Esecution' firme p'dict sibi adjudicari, &c. Et supinde p'dict' E. gratis hic in Cur' fateretur se ulterius nolle p'sequi s'us p'fat A. p' aliquibus dampnis ei occone Transgr' & Esecution' p'dict' adjudicand' s'et omnia humo'i dampna ei sic adjudicand' gratis hic in Cur' remittit & relaxat Ita p'dict A. de eisdem dampnis sit quiet' Et eat inde sine die, &c. Et super hoc p'dict E. per breve Domini Regis Ric' Cond' p'dict dirigend' de habere faciend' ei possessionem termini p'dict de & in Manerio & Tenementis p'dict cum p'ciu adhuc ventur' Et ei conceditur retorsabile hic a die S'ti Michis in tres Sept, &c.*

* The Act of Parliament 5 & 6 W. & M. says, 6 s. 8 d. shall be paid upon signing Judgment to the proper Officer, who signeth the same in full Satisfaction of the Capiatur Fine, and all Fees due for or concerning the same. Which said Officer shall make an Increase to the Plain-

Com. Pleas. Plaintiff of so much in his Costs to be
 taxed against the Defendant.

Cogn' Action'.

Et p^oice A. p B. Atto^rnd suum ven^d & Defend^r vim & injur^r quando, &c. Et die quod ipse non potest dedicere Action^m p^{re}dict^m C. p^odict^m nec quin ipse debet eidem C. p^odict^m 10 l. (if upon Bond then say, Et die quod ipse non potest dedicere quin scriptum obligatorium p^{re}dict^m est factum ipsius A. nec quin ipse debet eidem C. p^odict^m 10 l.) modo & forma p^{re}dict^m C. superius s^ulus eum narrabit It^{em} cons^u' est quod p^odict^m C. recuperet s^ulus p^{re}dict^m A. de h^um suum p^odict^m & dampna sua occasione detentionis debi^t illⁱ ad * 40 s. 6 d. eidem C. ex assensu suo per Cur^{iam} hic adjudicat Et p^odict^m A. in M^{ia}, &c.

Sign^r die —
 An. Dom.
 Reg. —
 M^{ia}.

* Note, The Common Costs are 40 s. unless it be by Original, and then usually 50 or 60 s.

Note, That upon a Judgment by Warrant of Attorney, there is no Need of an Original, if the Plaintiff have a Release of Errors.

If the Defendant hath pleaded per minus or per duces to the Barr^r, and the Plaintiff replies quod fuit sui juris ad l^{it}erum, and Issue thereon; and after this the Defendant is minded to confess the Action, then enter it thus :

Ad quem diem veni partes p̄dict p̄ At.
toznd suos p̄dict Et sup hoc p̄dict A. re.
licta s̄ificatione sua p̄dict p̄ ipsum supius
p̄tens' dic' quod ipse non potest dedicere
actionem p̄dict' C. p̄dict' nec quin ipse tem-
pore confectio' scripti p̄dict' fuit sui ius-
ris ad largum Et scriptum illud ex mera
& spontanea Voluntate sua p̄fat C. fecit &
non ob metū minarum put ipse p̄dict' A.
interius allegabit Ideo cons' est quod p̄dict'
C. recuperet, &c. (ut antea.)

Relicta veri-
ficatione
Cogn' Ac-
con.

If after Non est factum pleaded, then
say, as next before usq; nec quin scriptum
p̄dict' sit factum ipsius A. nec quin ipse de-
bet p̄fat C. p̄dict' 10 l. modo & forma put
p̄dict' C. supius vers' eum queritur Ideo,
&c. (ut sup̄a.)

Non sum Informatus in Case.

Et p̄dict' A. B. per C. D. Attoznd suum
venī & defend vim & injur' quando, &c. Et
idem Attoznd dic' quod ipse non est infoznd
per eund A. de aliquo respons' p̄ eodem
A. p̄fat C. in loquela p̄dict' dand Et ni-
chil aliud inde dic' per quod idem C. res-
manet vers' p̄fat A. inde indefens' Ob qđ
idem C. dampna sua occasione p̄mis' vers'
sus p̄fat A. recuperare debeat sed quia ne-
scitur qđ dampna p̄dict' C. sustinuit oc̄co-
ne p̄mis' p̄cept est tūc qđ p̄ Sacram̄ duo-
decim p̄bozum & legalium hominū de Com' p̄
p̄ diligent inquirat que dampna p̄dict C. su-

Writ of In-
quiry award-
ed.

stinuit

Com. Pleas. *stinuit* tam occasione *pmissi* quam *pro missi*
 & *custag'* suis *p* ipsum circa *sedam* suam
 in hac parte *appoi'* Et *inquisitionem* quam
 inde fecit *Uic* constare faciat *Iusticiariis*
Dni Regis apud *Westm* a die *S'ci Mi-*
chis in tres septimanas sub sigillo, &c. & si-
 gillis, &c.

In Covenant.

Write as above usq; ——— Ob quod is-
 dem C. dampna sua occasione fractionis con-
 ventioni *pdict'* vers⁹ *pstat* A. recuperare de-
 beat Sed quia nescitur q; dampna idem C.
 sustinuit occasione fractionis conventioni *pdict'*
pcept est *Uic* qd' *p* sacram^u duodecim *p*horum
 & legalium hominum de *Com* *pdict'* diligenter
 inquire, &c. (ut antea,) occasione fractioni con-
 ventioni *pdict'*, (&c.)

In Debt.

Write as first above usq; ——— inde in-
 defens⁹ *Jo* cons⁹ est quod *pdict'* C. recuperet
Glus *pstat* A. debitum suum *pdict'* & damp-
 na sua occasione detentionis debi⁹ illi ad 40 s.
 eidem C. ex assensu suo *p* *Cur'* hic adju-
 dicat & *pdict'* A. in *Mia*, &c.

Mia.

In Ejectment.

Write as above usq; inde indefens' —
 Nō cons' est quod p̄dict C. recuperet versus
 p̄fat A. terminum suum p̄dict (or posses-
 sionē termini sui p̄dict) de & in Parcia
 & Tenitis p̄dict cum p̄tū adhuc ventur'
 Accetiam idem C. dampna sua occōne Trā-
 gr' & Ejectionis p̄dict' recuperare debeat
 Sed quia nescitur que dampna idem C.
 sustinuit occōne Trāsg'r & Ejection' p̄dict
 p̄cept est Wic, &c. (as before in Nil di-
 cit in Ejectment.)

If you have Occasion for a Remitt
 dampn, Enter as before by Nil di-
 cit.

In Trespass.


The same as first above, only for (oc-
 cōne p̄miss.) you must say (occōne Trāsg-
 gr' p̄dict) with a Writ of *Inquiry*.

In Trespass and Assault.

You must say ——— occōne Trāsg'r &
 Insult p̄dict.

In

Com. Pleas.

 In Trespass, Assault and Imprisonment.


——— Decree Transgr^d Insult & Imprisonment *prodict*.

See the late Act of Parliament, that all Statutes of *Jeofails* shall be extended to Judgments to be entered upon Confession, *nil dicit* or *non sum Informd* in any Court of Record, and no such Judgment shall be reversed, nor any Judgment upon any Writ of Inquiry of Damages executed thereon be staid or reversed, for or by Reason of any Imperfection, Omission, Defect, Matter or Thing whatsoever, which would have been aided and cured by any of the said Statutes of *Jeofails*, in Case a Verdict of twelve Men had been given in the said Action or Suit; so as there be an Original Writ or Bill, and Warrants of Attorney duly filed, &c.

Note, The Plaintiff's Attorney is to file his Warrant the same Term he declares, and the Defendant's the same Term he appears, &c. See the Beginning of the fourth Part of *Instr. Cler.*

Of Docquets.

NOTE, In the *Common Pleas*, when you carry in your Rolls, you must docquet your Judgments and Entries on the

the Docquet of that Term of which they Com. Pleas. are entred, which is kept in the Office, 
(viz.)

Nil dicit, or *Non Informd* (as the Case is over-head thus ;

Non Informd in Debo.

| | |
|-------------------------------|------------|
| <i>Widj R. Dottin p Jones</i> | } Rot 125. |
| <i>Carpenter p Clarke</i> | |

And so for the rest, as you will see by the Docquet— Rot ac'o, &c.

And Note, You may search the Docquets to find any Judgment you have Occasion for ; but this is not soon found unless you know the Attorney's Name that entred it.

But if you search with the Clerk of the Effoins, you may easily find it ; for he keeps an Alphabetical Table for that Purpose, of the Parties Names.

Also *Note*, That when a Verdict is had at a Trial in the Country, you get the *Postea* returned from the Clerk of the *Postea*, then stamp it and carry it to the Prothonotary to sign Judgment, and tax Costs. After which he gives it to the Clerk of the Judgments, who keeps it to enter up the Judgment on the Roll.

Breve de Inquir'.

Writ of In-
quiry.

* If at the
Suit of a Pri-
vileged
Person, you
say, *Attach'*
esset per bre'
nostrum de Pre-
vileg' Cur' hic
emanan' essen-
di, &c. ad re-
spond' C. D. A
As in the De-
claration.

* (Non perfor-
mation' pro-
mission' & As-
sumption' p'd.)

This Writ
must be sign-
ed by the
Prothonota-
ry.

Gregorius secundus Dei Gratia Magne
Britan' Franc' & Hibernie Rex Fi-
dei defens', &c. Vile S. salutem Cum A.
B. nup de E. in Comd tuo Yeoman Attach
esset * essendi in Cur' nostra coram Justic'
nris apud Westm ad respondend' C. D.
de p'tio Quare cum, &c. (as in the O-
riginal or Declaration (only instead of the
Year of the King, you say, Anno Reg-
ni nostri, (&c. to) Ad dampnum ipsius C.
vigineti librarum ut dicitur Taliterque in
eadem Cur' processu' est quod p'dict' C.
dampna sua occasione * premis' versus p'tat
A recuperare debeat Sed quia nescitur q
dampna p'dict' C. sustinuit occasione p'miss'
(If in Case for Words or Torts. But in
Case on Assumpsit always say, occasione
non p'formation' p'mission' & assumption)
Tibi precipimus qd' p' Sacram' duodecim p'boz
& legalium hominum de Comd tuo diligent
inquir' que dampna idem C. sustinuit tmd
occasione p'miss' quam p' mis' & custag' suis
p' ipsum circa lecta sua in hac parte ap-
posuit Et inquisitionem quam inde feceris
constare fac' Justic' nris apud Westm (the
Return) sub sigillo tuo & sigillis eorum p'
quorum Sacram' Inquisition' ill' feceris Et
habeas ibi noia eorum p' quod Sacram' In-
quisition' ill' feceris Et hoc h're Teste R.
Eyre, apud Westm 12 die Junii Anno
Regni nostri primo.

You

You must give Notice of the executing of this Writ, after the same Manner as is observed before in the King's Bench.

See after in the *Special Notes*, Tit. *In-quir'*.

Ca' Sa'.

Gregorius Secundus Dei Gratia Magne
 Britan Franc & Hibernie Rex Fidei
 Defens', &c. Vic S. salutem Precipimus
 tibi quod capias A. B. nup de C. in Com
 tuo Yeoman si invenit fuerit in Balkia tua
 Et eum salvo custod ita quod habeas corpus
 ejus coram Justic nostris apud Westm (the
 Return) Ad satisfaciend C. D. de decem li-
 bris & novem solidi qui eidem D. in eadem
 Cur' nostra coram Justic nostris apud West-
 mon [if in Case say, Adjudicat' fuer' pro
 dampnis suis que sustinuit occ'one cujusda'
 Transgr' super Casum eid' C. per prefat' A.
 apud E. in Com' tuo fact' & illat' unde, (&c.)]
 Adjudicat' fuer' pro dampnis suis que habuit
 occ'one quarundam pmission & assumpcion
 eidem D. p pfat' A. apud E. in Com' tuo
 fact' non pfozmat unde convict' est Et habeas
 ibi hoc b'd Teste R. Eyre, (&c.) (ut in a^l.)

In Case sur
 Assumpsit.

Sign' 4d.

Aliter sur
 Promis'.



If in Covenant.

Say as before, and after the Words pro
dampnis suis que habuit, say occasione cus
jisdam convençõd inter eos fact' secund' vim
formam & effectum quarundam Indentur' (or
quorundam articulozum, as the Case is)
inter eos confect' fact' unde convict' est Et
habeas, &c. ut in al.)

Ca' Sa' in Debito.

(Memorand' the alias dict'.)

Sign' 4d.

Ad satisfaciend' C. D. tam de quodam
debito viginti libz' quod idem C. D. in Cur'
nostra coram Justic' nostris apud Westm' res
cupabit versus eum quam de quadraginta

* 43 s. Com-
mon Costs, if
by Orig. 50
or 60 s. when
Judgment by
Confession. in al.)

solio * qui eidem C. D. in eadem Cur' nostra
adjudicat' fuer' p dampnis suis que habuit
occasione detençõd debiti ill' unde convict'
est Et habeas ibi hoc bzd Teste, &c. (ut
in al.)

Testatum

Testatum Ca' Sa'.

Write as before in the other **Ca Sa** *Sign' 8 d.*
 only directing to another County, and
 making a new Return) unde convia' est Et
 unde Vic' nostr' S. man' Justic' nostris apud * The Re-
 Westm' (in Crō * Ascensōm Domini) ult' turn in the
 pterit quod p'dict' A. B. non est invent' in First Ca' Sa',
 Balia sua cum testatum sit in eadem Cur' upon which
 nostra quod latit vagat & discurr in Com' the Testat. is
 tuo Et habeas, (&c.) Telle, (&c.) grounded.
But note, The
Return of
 the First Ca' sa' is not now set out in the rest, but instead
 thereof say (*Ad certum diem jam praterit'.*)

Ca' Sa' in Trespass and Assault.

Ad satisfaciend' C. D. de decem libris que
 eidem D. in Cur' nostra coram Justic' nostris
 apud Westm' adjudicat' fuer' pro dampnis
 suis que sustinuit occasione quarund' Trans-
 gres. & insult' in ipsum C. D. p' p'sat' A. Vi
 & Armis ac contra pacem nostram apud
 B. in Com' tuo fact' Unde convia' est Et ha-
 beas ibi hoc breve Telle, &c. (ut in al.)

Upon a Nonsuit in Case.

Ad satisfaciendū A. B. nuper de, (ꝛ.)
 Gen^d de centum solidis qui eidem A. B. in
 Cur^a nostra coram Justiciis nostris apud West-
 mon^{asterium} p^{er} discretionē eorundem Justiciis nostrorum
 adjudicat^{us} fuer^{it} p^{ro} mis^{is} & custag^{iis} suis que susti-
 nuit in quodam placito Transgres. sup^{er} Calid^{itate}
 p^{ro} p^{re}fat^o C. D. versus eundem A. B. in eadem
 Cur^a nostra impetrat^{us} secundum formam Sta-
 tuti inde edit^{us} & p^{ro}vis^{is} erga partes Quer^{entis}
 que brev^{ia} sua in hujusmodi placitis non
 p^{ro}ss^{ent} aut in eisdem p^{re}clus^{us} forent unde
 convida^{us} est Et habeas ibi hoc breve Teste,
 ꝛc. (ut in al.)

Simile in Debito.

Ad satisfaciendū A. B. nuper de, (ꝛ.)
 Gen^d de centum solidis qui eidem A. in Cu-
 ria nostra coram Justiciis nostris apud West-
 mon^{asterium} p^{er} discretionem eorundem Justiciis juxta
 formam Statuti inde edit^{us} & p^{ro}vis^{is} adjudicat^{us}
 fuer^{it} p^{ro} mis^{is} & custag^{iis} suis que sustinuit p^{ro}
 eo quod p^{re}dict^{us} C. D. non est p^{re}secut^{us} breve
 suum p^{ro} eundem C. in quodam placito debiti
 super demand^o 40 l. versus p^{re}fat^{um} A. in Cu-
 ria nostra impetrat^{us} unde convida^{us} est Et
 habeas, ꝛc. (ut in al.)

Upon

Upon the Plaintiff's Nonsuit at the
Affizes.

As next before usq; ——— pro mis' & cus-
tag' suis que sustinuit p falso clamore p'dict'
C. in quodam placito debiti super demand
40 l. p eundem C. versus p'fat A. in Curia
nostra prosecut Unde convict' est Et ha-
beas, &c. (ut in aꝑ.)

Upon a Nonsuit in Ejectment.

Say as before in verbo usq; ——— pro
mis' & custag' suis que sustinuit pro eo quod
p'dict C. non est p'fecut breve suum in quos-
dam placito Transgres. & Esec'ion' firme per
eundem C. versus p'fat A. in Curia nostra
p'p'dict' impetrat Unde convict' est Et habeas,
&c. (ut in aꝑ.)

Upon a Nonsuit in Trespass.

As next before, only say, que sustinuit
eo quod p'dict' C. non est prosecut h'be suum
in quodam placito Transgres. p ipsum C.
&c. (ut in aꝑ.)

Ca' Sa' against an Executor *de Bonis propr'*
upon a *Devastavit* returned by the
Sheriff.

Salutem Precipimus tibi qđ capias E. F.
Executozem testamenti A. B. si inuent fuer'
in Valliva tua & eum salvo custod ita quod
habeas corpus ejus coram Justic nostris apud
The Return Westm* — Ad satisfac C. D. tam de
quodam debito 30 lib. quod idem C. in Curia
nostra coram Justic nostris apud Westm —
— recuperabit versus eum quam de 30 s.
& sex denar' qui eidem C. in eadem Curia
nostra adjudicat fuer' pro dampn' suis que ha-
buit occasione detencion' debi illi unde convict'
est Et unde cons' est in eadem Curia nostra
quod p'dict' C. habeat Executionem versus
p'fat' E. F. Executozem de debito & dampnis
p'dict' de bonis & catallis ipsius E. F. p'p' le-
vand' Et quod p'dict' A. B. diversa bona & ca-
talla que fuer' p'fat' A. B. Testatoris tempore
mortis sue ad valentiam debiti & dampnozū
p'dict' que ad manus p'dict' E. F. post
mortem p'dict' A. B. administrand' debe-
ner' Devastavit & in usum suum p'p' con-
vertit & disposuit prout tu ipse Justic nos-
tris apud Westm (such a Return) ult'
p'terit mand' Et habeas ibi hoc breve Teste,
et. (ut in al.)

Note, That upon a Judgment against an Executor or Administrator, a *Ca Sa* ought not to issue out, but a *Fi Fa de Bonis Testatoris*; except a *Devastabit* be returned, and then a *Ca Sa* lies against the Body, or a *Fi Fa* against their Goods.

Ca' Sa' post Sci' Fac' upon Defendant's Default.

——— *Unde convict' est Et unde convict' est in eadem Curia nostra quod p'dict' quer' heat Execution' versus p'fat' Def. de debito & dampn' p'dict' p' default ipsius D. Et habeas, &c. Vide postea Fi Fa & Sci Fa.*

Fi' Fa'.

Fieri Facias in Case sur Promiss' non performat'.

Georgius Secundus Dei Gra Magni Stamp tre-
Britan Franc & Hibernie Rex Fidei ble 6 d.
Defens', &c. Nos S. salutem Precipimus tibi This Writ
quod de bonis & catallis A. B. nup de, (&c.) must be sign-
in Balliva tua Fieri Fac' decem libras que ed in the
Prothonota-
ry's Office,
where the Declaration is filed, for which you pay 4 d. and
sealed at the Seal-Office 7 d. Warrant 2 s. 4 d.

Com. Pleas. C. D. in Curia nostra coram Justiciis nostris
 apud Westm^{onasterium} * adjudicat fuer' p dampnis
 * Alit' in cas' suis que habuit occasione quarundam pmissionum
 (adjudicat') & assumptionem eidem C. p p^{re}fat A. apud E.
 fuer' prodampnis suis que habeas coram Justiciis nostris apud Westm^{onasterium} in
 sustinuit occasione cujusdam C^{onsuetudinis} Sancte Trin^{itatis} ad reddend^{um} p^{re}fat C. de
 Transgr^{essione} super dampn^{um} p^{re}dict^{um} unde convict^{us} est Et habeas ibi
 Cas^{us} eidem C. hoc breve Teste, &c.
 per p^{re}fat^{um} A.
 apud E. in Com^{itatu} tuo fact^{um} & illat^{um}. Unde convict^{us} est & denar^{um} ill^{as}
 habeas, &c. (ut in al^{io}.)

For Words.

Occasione diccionis & ppalationis quorundam
 verborum scandalosorum p p^{re}dict A. de p^{re}
 fat C. apud C. in Com^{itatu} tuo Et denar^{um}, (&c.)

In Covenant.

Say as before usq^{ue} ——— p dampnis
 suis que fuit occasione cujusdam convent^{us}
 int^{er} p^{re}dict^{um} A. & p^{re}fat C. fact^{um} secundum vim
 formam & effectum quorundam Articulorum
 [or quarundam Indentur^{um}, &c. as the Case
 is] inter eos confect^{um} tract^{um} Et denar^{um} ill^{as} ha-
 beas, (ut antea.)

In Debt.

Georgius, &c. (ut antea) ——— Precipis
 G mus tibi quod de bonis & catallis A. B.
 nup

nup de E. in Comd tuo Gen * in Balſa Com. Pleas.
 tua Fieri Fac tam quoddam debitum 40 l.
 qđ C. D. in Cur nostra coram Juſtic noſtris *Alias diſt*,
 apud Weſtm recuperabit verſus eum quam *Ec. if upon*
 40 s. qui eid C. in eadem Curia noſtra adju- *a Specialty.*
 dicat fuer p dampn ſuis que huit occone des-
 tenconis debi ill Et denar ill heas, (ſc.)
 (ut in al) — ad reddend pſat C. de debo
 & dampn pđ unde condict' eſt Et heas, ſc.

In Ejectment for Damages.

Georgius, ſc. — Fieri Facias
 10 l. que C. D. in Cur noſtra coram
 Juſtic noſtris apud Weſtm adjudicat fuer
 p dampnis ſuis que ſuſtinuit occone cuſuſda
 Tranſgr & Eſection firme pſat C. p pđict'
 A. bi & armis & contra pacem noſtram apud
 E. in Comd tuo illat Et denar ill habeas,
 ſc. (ut antea in Caſe.)

In Replevin.

Occone capconis & injuſte detentionis A-
 veriorid iplius (Quer) apud E. in quod loco
 voc G. unde condict' eſt Et habeas ibi, ſc.

In Trespaſs.

— Occone cuſuſdam Tranſgr eide
 C. p pſat A. bi & armis ac contra pacem no-
 ſtram apud E. in Comd tuo illat Et denar,
 (ſc.) de dampnis, (ſc.)

Georgius,

Com. Pleas,

The Tre-
spass, where
several Da-
mages are
recovered a-
gainst two
Defendants.

Gorgius, &c. ——— saltem Precipimus
tibi quod de bonis & catallis C. D. nup
de G. in Com' tuo Peoman in ballia tua
fieri fac' Quatuor Libz' p dampnis que
A. B. sustinuit occasione cuiusdam transgr ei-
dem A. p pdict' C. illat' necnon de bonis
& Catallis E. F. nup de eadem in Com'
tuo Peoman in ballia tua Fieri Fac' sexa-
gint solidis p dampnis pdict' A. que sustin-
uit occasione cuiusdam Transgr eidem A. p pd'
E. illat' necnon de bonis & Catall eo-
rundem C. & E. in ballia tua Fieri Fac'
decem libz' p missis & Custag' suis p ip-
sum circa sextam suam in hac parte appoit' &
denar' ill' heas coram Justic' nris apud
Westm' (the Return) ad reddend' pfat' A.
de dampnis pdict' Unde Convict' sunt Et
heas, &c.

Testat' Fieri fac' in Debt.

* Sheriff of
the County
in the first
Writ, and
Return
thereof.

Write as before in a General *Fieri faci-*
as in Debt usque ——— Convict' est Et uno
de Vic' nri S. * mand' Justic' uris' apud
Westm' ad certum diem jam pterit' quod
pdict' A. nulla het bona seu Catalla in
Ballia sua unde Debum et dampnum pō
aut aliquam inde parcell' Fieri seu levare
facere potuer' cum Testand' sit in eadem
Cur' nra quod idem A. satis het de Bo-
nis & Catallis in Com' tuo unde Debum
& Dampna pdict' fieri & levare facere pos-
sint Et heas ibi hoc breve Teste, &c.

Fieri

Fieri fac' against an Administrator.

Precipimus tibi quod de Bonis & Catallis que fuer' R. G. qui obiit intestat ut dicitur tempore mortis sue in manibus A. G. Vid' Administrat' Bonorum & Catallorum que fuer' ejusdem R. existent' in And so of an Ballia tua Fieri fac' tam quoddam De- Administra- tum iol. quod J. S. Gen' in Cur' nra tor mutatis coram Justic' nris apud Westm' recupa- mutand'. bit solus eam quam Viginti' denar' qui ejusdem J. in eadem Cur' nostra adjudicat fuer' p dampnis suis que fuit occasione detention' Debi ill' si eadem A. tanta bona & catalla que fuer' p'dict' R. tempore mortis sue in manibus suis administrand' habeat Et si non heat tunc dampn' p'dict' de bonis & catallis p'dict' A. ppz' levand' Et denar' &c. (ut in al'.)

Note, If any Executor plead *ne Unques Executor*, and it be found for the Plaintiff, the *Fieri fac'* shall be *de Bonis propriis*: But if he plead *plene Administravit*, and it be found for the Plaintiff, then the *Fieri fac'* shall be of the Goods of the Testator; and if the Executor has sold the Testator's Goods, and taken Money or other Goods for the same, then he is, 'tis said, upon the *Fi' Fa'* to take other Goods of the Executor's to the Value of the Goods sold. 14 H. 4 Fitz. Ret. 55. See after upon a *Devastavit* returned.

Also

Com. Pleas.

Also for a further Satisfaction of Execution, &c. upon all Manner of Writs; see *Dalton's Office of Sheriffs* last published, the *Compleat Sheriff, Retorna Brevium*, W. Greenwood revised by *Wilkinson, &c.*

Fieri fac' versus Executor' in Covenant.

—Precipimus tibi quod de bonis & catallis J. B. (et.) in manibus W. B. & R. B. Executor' Testamenti ejusdem J. B. in Balliva tua existens Fieri Fac' tam Centum Libras quas A. M. in Cur' nostra coram, (et.) apud Westm' adjudicat' fuer' p dampnis suis que fuit occasione fractionis ejusdem Conventionis int' p'fat' J. B. defunct' & p'fat' A. fact' quam quinque terras que eidem A. in eadem Cur' nostra adjudicat' fuer' p missis & cultag' suis p ipsum circa sectam suam in hac parte appoit' si eidem W. B. & R. B. tanta bona & catalla que fuer' J. B. tempore mortis sue in manibus suis administrand' habeant Et si non habeant tunc dampn' p'dict' p miss' & cultag' suis de bonis & catallis ipsorum dict' W. B. & R. B. p'p' levand' Et denar' ill', et. (ut in al'.)

Fieri Fac' per Defalt' alter Nichil returned on Scire Fac' post annum & diem.

—Unde Condict' est Et unde cons' est in eadem Cur' nra coram Justic' nris apud

apud Westm' quod pōict W. habeat execu. Com. Pleas.
tionem versus p̄fat C. p̄ ipsius T. defalt Et
habeas, &c.

*Fieri Fac' de Bonis propriis post Devastavit re-
torn' per Inquisitionem.*

Georgius, (&c.) salutē Precipimus tibi qd' See after.
de bon' & catall' J. S. Executor' Testd T. S.
in Balliva tua Fieri Fac' tam quoddam
debitum Centum & Sexaginta Librarum
quod W. A. Ar in Cur' nostra coram Justic'
nostris apud Westm' recuperabit versus p̄fat
T. in vita sua quam Sexaginta solidis qui
eidem W. in Curia nostra adjudicat fuer' pro
dampnis suis que habuit occasione detencōd
debiti ill' Et denar' ill' habeas coram Justic'
nostris apud Westm' in Octab' Scd Hill ad
reddend' p̄fat W. de debito & dampn' p̄dict'
Unde p̄dict' E. in vita sua condic' fuit Et
unde cons' est in eadem Cur' nostra coram
Justic' nostris apud Westm' quod p̄dict' W.
habeat execuōd' versus p̄fat J. de debito &
dampn' p̄dict' de bonis & catallis p̄dict' J. p̄-
pris levand' p̄ ipsius J. defalt eo quod p̄-
dict' J. diversa bona & catalla q̄ fuer' p̄-
dict' T. tempore mortis sue in manibus
suis administrand' ad valenc' debiti & dampno-
rum p̄dict' vendidit & ad usum ppz' cons-
vertit & disposuit put p̄ quandam Inquisi-
tōd' indentat' coram te apud, ——— &c.
——— die ——— ult' p̄terit p̄ Sacram
probozum & legalium hominum de Ballia
tua capē (a die Scd Martini in quindecim
dies)

Com. Pleas. dies) ult pterit recoznat coram pfat Justie nostris apud Westmō de Recorde remanend plenius liquet & apparet Et habeas ibi hoc breve Teste, &c.

Elegit de debito.

Gorgius, (sc.) Vic S. salutem Cum A. B. nup in Curia nostra coram Justie nostris apud Westmō p cons' ejusdem Cur' recuperasset versus C. D. nuper de, (sc.) tam quoddam debitum ducentarum librarum quam cent Solido qui eidem A. in eadem Curia nostra adjudicat fuer' pro dampnis suis que habuit occasione detent' debiti ill' unde convict' est idem A. postea vend in eadem Curia nostra Et p Statut inde p- vis' Elegit sibi liberari omnia bona & catalla pdict' C. pter Boves & Affros de Caruca sua & silit medietat omnium terrarum & Tenementorum suorum in Valliva tua tenend sibi bona & catalla pdict' ut bona & catalla sua propz' ac etiam tenend medietat pdict' ut liberum Tenementum suum sibi & assign' suis juxta formam Statuti pdict' quousque debitum & dampna pdict' inde levas verit Et ideo tibi pcpimus quod omnia bona & catalla pdict' C. pter Boves & Affros de Caruca sua Et silit medietat omnium Terrarum & Tenementorum suorum in Valliva tua de quibus idem C. in Cto Sancte Trin' anno Regni nostri septimo quo die Judicium inde reddit' fuit vel unquam possea fuit seisit pfat A. sine disone liberari fac

per

per rationab^l p^rciū & extēnt tenend^o sibi bonū & Com. Pleas.
 cata^l p^r ut bonū & cata^l sua pp^ria Ac etiam
 tenend^o medietat^{is} p^r ut lib^{er} Tenementū su-
 um sibi & Assign^{is} suis iuxta formam Sta-
 tuti p^rdictⁱ quousque debitum & dampna p^r-
 dictⁱ inde levaverit Et qual^{it} hoc p^rcept^{um}
 nostrum fueris execut^{us} constare fac^{is} Justic^{is}
 nostris apud Westmon^{asterium} a die Scd^o Michis
 in tres septimanas sub sigillo tuo & si-
 gillis eorum p^r quorum Sacram^{entum} extēnt &
 appreciationem ill^{ud} feceris Et habeas ibi hoc
 h^{ab}ere Teste R. Eyre, &c.

Elegit for Damages in Trespass.

Georgius, &c. cum A. B. nup^{er} in Curia
 nostra coram, (&c.) per cons^{ensum} ejusdem Curie
 habeat versus C. & D. nuper de, (&c.) exe-
 cutionem de viginti Libris que eidem A. in
 eadem Curia nostra adjudicat^{us} fuer^{it} p^r dampn^{um}
 suis que sustinuit occ^{as}ione c^{on}s^{ensu}sdam Transgr^{ess}
 eidem A. p^r p^rfat^{um} C. vi & armis ac contra
 Pacem nostram apud E. in Com^{itatu} tuo il-
 lat^{us} unde convict^{us} est Idem A. postea ven^{it}
 in eadem Curia nostra, (&c. ut antea usque)
 quousque damna p^rdictⁱ inde levaverit Ideo ti-
 bi p^rcipimus quod omnia bona & catalla que
 fuer^{it} p^rdictⁱ C. (tali die)———ult^{erius} p^rerit^{is} quo
 die p^rdictⁱ A. execut^{us} f^{uerit} Judic^{is} p^rdictⁱ p^rius est
 assecut^{us} Et s^{ic}ut medietat^{is} omnium Terrarum
 & Tenementorum de quibus Idem C. sive ali-
 qua p^rsona sive p^rsonae ad ulum ipsius C. (tali
 die) vel unquam postea le^git^{us} fuer^{it} p^rfat^{um} A. si-
 ne d^{is}tone deliberari fac^{is}, &c. (ut antea.)

Elegit

Elegit after an Elegit.

Georgius, &c. (as before, reciting the First Elegit usque) ————— quousque debitum & dampna p̄dict inde levaverit Et qualiter illud p̄cept nostrum foras execut constare fac Justic nostris apud Westm̄ in Octab Sed Will ult p̄terit Tuque Justic nostris apud Westm̄ ad diem ill̄ mans̄ quandam Inquisitionē coram te apud Castrum E. (tali die) ult p̄terit p̄ Sacram̄ duodecim, (&c.) capt̄ p̄ quam comperit existit quod p̄dict C. fuit seisit̄ de Manerio, (&c.) [reciting the Return of the Inquisition] sup̄ quo p̄dict A. ven̄ in eadem Curia n̄ra dicen̄ quod p̄d' C. tempore Judicii p̄dict reddidit & postea fuit diversa Terras & Tenementa in Com̄ tuo ad annuū valorem quadraginta Libz' ult p̄d' Maneria, (&c.) in Inquisitione p̄d' sup̄ius specificat' Acetiam possessionat' fuit de diversis bonis & catallis in Com̄ tuo ad valorem triginta Libz' que tu ipse extendi & appreciari ac p̄fat A. libari potuisti Et Ideo tibi p̄cipimus sicut plur' tibi p̄cepimus quod omnia bona & catalla p̄dict C. p̄ter Woves & Affros de Caruca sua & sitit̄ medietat' omnium Terrarum & Tenementorum ipsius C. in Com̄ tuo ultra p̄dict Maner' in Inquisitionē p̄dict sup̄ius spec' de quibus idem C. tempore Judicii p̄dict reddidit vel unquam postea seisit̄ vel possess' fuit necnon Medietat' Maneriorum in Inquisitione p̄dict specificat' p̄dict A. liberari fac p̄ rationabile p̄cium & exten̄ tenen̄

tenend ut liberum Tenementum suū sibi & Com. Pleas.
 assignū suis juxta form' Statuti pōit' quousq;
 debet & dampna pōit' inde levaverint Et
 qualit' hoc pcept' n'rm fueris erecut' constare
 fac Justic' n'ris apud Westm̄ ——— sub si-
 gillo tuo & sigillis eorū, &c. (as before)

A Writ of Possession.

Corzius Secundus Dei Gratia Magne
 Britan' Franc' & Hibnie Rex Fidei
 Defens', &c. Vic' S. salutem Cum A. B. nu-
 per in Curia nostra coram Justic' n'ris apud
 Westm̄ per Considerationem ejusdem Cur'
 recuperavit Terrū suā adhuc ventur' de & in
 duobus Messuagiis, (&c. as in the Parr') cū
 ptiū in E. in Corā tuo versus C. D. nup de
 F. in Corā tuo Gen' que G. H. Mil' decimo
 quinto die Junii Anno Reg' n'ri primo p̄fat'
 A. dimisit habend' & occupand' Tenta pōict'
 cum ptiū sibi & assignū suis a vicesimo primo
 die Jan' tunc ult' p̄terit' usq; plenū finem &
 terminū Quinq; Annoz extunc p̄r' sequend' &
 plenar' complend' & finiend' qui nondum p̄te-
 riit Et unde pōict' C. ipsum A. a possessione
 sua inde expulit & amovit ac eundem A. a fir-
 ma sua pōict' ejecit Et ideo tibi p̄cipimus
 Quod p̄fat' A. possessionē suam Terminū sui
 pōict' adhuc ventur' de & in Tenementis pōict'
 cum ptiū sine dilatione habere fac Et qualit'
 hoc pcept' n'rm fueris erecut' constare fac
 Justic' n'ris apud Westm̄ a die S̄ci Michis
 in tres Septimanas Et heas ibi hoc b̄ve T. &c.

For signing
 thereof 1s. 4d.

Fieri fac' for Costs upon a Writ of Possession.

If you add a *Fieri fac'* for Costs, after the Return of the Writ, say, ——— *Prescripimus etiam tibi quod de terris & catallis p̄dict C. in Valliba tua Fieri fac' sex Libr' & decem solid' qui eidem A. in eadem Curia n'ra adjudicat' fuer' p̄ dampnis suis que huit occōne transgr' & ejection' p̄dict & denar' ill' heas coram Justic' n'ris apud Westm' ad p̄fat' Termin' ad reddend' p̄fat' A. p̄ dampnis p̄dict' unde convict' est Et heas ibi hoc breve Teste, &c.*

For all Sorts of Writs in the King's Bench, see *Thesaurus Brevium*, *Hansard's* and *Lilly's Entries*.

And for the Common Pleas, see *Brevia Judicialia & Officina Brevium*, *Clift's Entries*, &c.

And see after for

| | | |
|-----------------------|-----|--------------------------|
| <i>Attachments,</i> | } { | <i>Procedendo,</i> |
| <i>Certiorari,</i> | | <i>Scire Facias,</i> and |
| <i>Habeas Corpus,</i> | | <i>Supersedeas.</i> |

Attach' Privileg'.

For an Attorney of the Common Pleas.

Gregorius Secundus Dei Gra, &c. Vic S.
 salte Attach C. D. E. F. &c. si inveni-
 fuerint in Ballia tua Et eos salvo custod ita
 quod habeas corpora eorum coram Justic n'ris
 apud Westm die—— pr' post—— Ad
 respondens A. B. Gen und Attoz Cur no're
 de Banco juxta libertat & privileg ejusdem
 Cur p humoi Attoz ac aliis Ministris de * Note, De
 eodem Banco a tempore quo non existit me placito Trans-
 mozia usitat & approbat in eadem de placito gres. is not
 * transgr Et habeas ibi hoc breve L. (&c.) enough to
 hold to Bail

If the Action beailable and the Plain-
 tiff has made Affidavit of his Debt, then
 say, de plito transgr sup casum;—— The
 Sum in the Affidavit must be endorsed on
 the Writ.

For the Chief Prothonotary's Clerks.

Ad respondens A. B. Gen und Clericozum
 Georgii Cook Mil Capitalis Prothonotarii Cook.
 Cur n're de Banco juxta libertat & privileg
 ejusdem Cur p humoi Clericis & al Min'ris
 de eod Banco a tempore quo, &c. (as above)

Attachment.

Second Prothonotary's Clerks.

Foley.

Ad respondens A. B. uno Cleric' Thome
Foley Ar secundi Prothon' Cur' n're de
Banco jux' librat. &c.

Third Prothonotary's Clerk.

Borrett.

Ad respondens A. B. un' Cleric' Johannis
Borrett Ar un' Prothonotar' Cur' n're de
Banco juxta libertat, &c.

An Attachment against an Attorney for a Contempt.

Georgius, (&c.) Attach A. B. un' Attorn'
Cur' n're de Banco ita qd' eid' habeas coram
Justic' n'ris apud Westm' (ibi die) ad re-
spond' Nobis de & sup' hiis que ei ex parte
n'ra adtunc objicient' Et heas. (&c.)

This may serve against any other, *mu-
tatis mutandis.*

Certiorari

Certiorari pro Attorn' de Co'i Banco.

Gregorius, (tc.) Majori & Aldermannis
& Vic London salutem Precipimus
vobis qđ omnes & singulas Causas quereſ &
demand vers' A. B. un' Attoꝝ de Co'i Ban-
co n'ro coram vob' vel aliquo v'rm levat in-
choat & penden' unacū diebus levationis ea-
rundem heatis corā Justic' n'ris apud West-
moñ die Lune prox' futur' ut tñdem Justic'
n'ri vñs causis illis facere valeant inde pđ'
A. B. plenar' Justic' complement juxta libtat'
& Privileg' p' humo'i Attoꝝ a tempore quo
non extat memoria hactenus usitat' & appbat'
Et heatis, &c.

To remove a Plea into the Common
Pleas.

Gregorius, (tc.) Majori Aldriss & Vic
London salutem Voleñ certis de Causis
Certiorari tam de quadam Bill Original' co-
ram vobis seu aliquo v'rm levat sive affirmat
vers' T. R. nuper de, (tc.) ad sectam T. M.
de pñto debiti super demand Octo Librar'
q'm de quod Attach superinde fact' de octo libz'
in manibus & custod' A. B. existē Attach &
defens' vobis mandamus qđ Bill Original'
pñct & Attach pñct adeo plene & integre cñd
omnibus ea tangē pñt coram vobis sive ali-
quo v'rm residet quibuscunq; nomini' partes

Com. Pleas. in eisdem censeant' coram Justic' n'ris apud Westmon in Quinden Pasch mittat' unac' hoc breve Ut iidem Justic' n'ri ulterius inde Fieri Fac' prout de Jure fore viderint T. &c.

For an *Accedas ad Cur'*, *Recordari fac'* *Loquelam*, *Pone*, and Writ of false Judgment to remove Plaints out of inferior Courts, see in the Writ before-mentioned; and for the Nature of them, see *Dalton's Office of a Sheriff*, *Wilkinson on Greenwood* revised, *Retorna Brevium*, *Terms of the Law*, &c. Also see after amongst the Special Notes, *Tit. Habeas Corpus*.

Habeas Corpus cum Causa ad fac' & rec'.

* Day certain.

Gorgius, (&c.) Pasori, (&c.) salutem Precipimus vobis & cuilibet v'ro qd' habeatis coram Justic' n'ris apud Westmon ——— (the Return*) Corpus C. D. in Prisona n'ra sub custod' vestra detent' ut dicite quocunq; nomine censeatur in eadem unac' die & causa capcion' & detencon' ejusdem C. D. ad faciend' & recipiend' qd' Curia n'ra de e' con's in hac parte Et habeas ibi hoc breve Teste, (&c.)

Habeas

Habeas Corpus to the Marshal's Court returnable *immediate*.

G Georgius, (&c.) Judicibus Curie Pala- Stamp now
tini n'ri Westm' & eor' cuilibet saltem 5 s. to Pro-
Precipimus vobis qd corpus A. B. in Prison thonotary to
no'ra sub custod' v'ra ut dicitur detent' quo- sign it, 1 s.
cunq; nomine censeat' in eadem unacū die & 4 d. to Judge
causa capcōn' & detentōn' ejusdem habeatis 4 s. Sealing.
coram Rob. Eyre, Mil' Capital' Justic' no'ro 7 d.
[or coram J. P. Mil' un' Justic' no'ro] Allowance at
when it is returnable before another Judge] the Marshal's
de Banco apud Cameram suam situat' . . . Court 4 s. 8 d.
Second Cause
immediate post receptōn' hu- 1 s. &c.
jus h'ois Ad faciend' & recipiend' qd idem Ju- Any Judge
stic' noster adtunc & ibidem de eo consid' of the Com-
in hac parte Et habeatis ibi hoc breve mon Pleas
Teste, &c. may sign it
and take the
Bail, and

Defendant need not attend with the Bail. Stamp for Bail-
Piece 2 s. Judge's Clerk's Fee upon Bail 7 s. 6 d. The Mar-
shal's Court take Two or Three Days to make their Return.
Any Thing above 5 l. removes the Action.

You leave the Habeas Corpus at the
Marshal's Court Office in *Clifford's Inn*,
and after they have returned it, you car-
ry it with the Defendant and Bail to the
Judge coram quo, &c. or any other Judge.
Note, Any Action above 5 l. removes the
Cause. *Vide* the King's Bench.

Note, If the Defendant be minded to
go to the *Fleet*, then there needs no Bail;
D d 4 but

Com. Pleas. but if the Defendant be not actually in Prison, then he must get the Officer to return a *Cepi*, or else to get *Spencer* the Officer to come over to take him into his Custody, and make Certificate, or else actually to carry the Persons to the Prison.

Habeas Corpus upon a *Cepi Corpus* returned in Debt.

Georgius, (&c.) salutem Precipimus tibi quod habeas coram Justitiæ nostris apud Westmonasterium (tali retortum) corpus A. B. quem per preceptum nostrum cepisti & penes te detines pro triplici Justitiæ nostris apud Westmonasterium (tali die) ultimum preteritum mandatum ad respondendum E. D. de placito quod reddat ei 20 l. quas ei debet & injuste detinet ut dicat Et habeas ibi hoc breve Teste, &c.

Simile in Transgr.

Ad respondendum C. D. de placito quare Mihi & Armis cum ipse C. apud E. fregit Et alia enormia ei intulit ad grave dampnum ipsius C. Et contra pacem nostram ut dicat Et heas, &c. And so in other Actions according to the Form of the *Capias*.

Note, That upon Bail taken of a Person in Custody, the Prisoner is not to be discharged till the Bail be assented to, or over-ruled in open Court. The Defendant being

being bailed upon a Habeas Corpus, the Plaintiff must bring his new Original within two Terms following (that Term, wherein the Bail was taken to be accounted for one, unless it was taken the last Day of the Term) and declare against him, as the Nature of his Cause or Action shall require, observing the same Method of getting Judgment and Execution, by Way of *Mil Dicit, non sum Infirmus*, Confession or Trial by *Mil prius*, as in other Cases.

See more after in *Scire fac* of Proceeding against the Bail.

Note, If a Man be taken upon a King's Bench Process, and removes himself to the Fleet, you may charge him with a Declaration in this Court: For the Method thereof *vide* the latter End of the Book, the Rules made by this Court, for delivering of Declarations against Prisoners, and the Proceedings thereon.

Procedendo in the Marshal-Court.

G Coram, &c. Iudicibus Cur' Palatii nostri *Westm* & eor' cuilibet salutem Cum nup vobis p h're nostrum precepimus quod haberetis coram Robto Cyze *If before another Judge, say, coram A. Camera sua situat', (&c.) immediate post B. Mil' un' reception' brevis pdict' corpus A. B. in Pri' Justic' nro' sona nostra sub custod' v'ra detent ut dicitur de Banco, &c.*

tur

Com. Pleas, tur unacum die & causa capſon & detenſon ejusdem quocunque nomine idem A. cenſeat ad faciend & recipiend quod pſat Capital' Juſtic noſter de eo conſ in hac parte tamen certis de Cauſis Juſticiariis noſtris de Banco pſict apud Weſtm' in hac parte ſpecialit' movend vobis & cuilibet vꝛnd precipimus quod in quibuscunque placitis & Querelis verſus ipſum A. B. in Cur' noſtra coram vobis mot ſive penden' ſecundū Legem & conſ Regni nꝛi Magne Britan' ac Cur' pſict pcedatis cum effectu aliquo brevi vobis nup in contrariū direct' non obſtante, Teſte Roberto Cyꝛe, &c.

Aliter.

As above uſque ——— de eo conſ in hac parte quia tamen Juſtic noſtris de Banco pſict' apud Weſtm' ſatis conſtat quod pꝛeſdict' A. breve pſict' de habend corpus ſuum unacum die capſon & detenſon ejusdem A. coram pſat Juſtic noſtris ad diem & locum pſict' juxta tenorem ejusdem brevis debito modo non eſt pſecut' Ad vobis precipimus quod in omnibus & ſingulis pſictis ſeu querelis in Cur' noſtra coram vobis ſeu aliquo vꝛnd mot ſive penden' ſecundū Legem & conſ Regni noſtri Magne Britan' ac Cur' pſict put juſtum fuerit pcedatis & quilibet vꝛnd pcedat cum effectu pſict vꝛnd noſtro de habend corpus vobis inde nup direct' in aliquo non obſtand Teſte, &c.

Aliter

Aliter sur Habeas corpus retorn' in Cur'.

G Corgius, &c. Cum nup vobis p h'ed
nim precepimus quod haberetis cor-
ram Justic' nostris apud Westm' die Mer-
curii pr' post quinden' Sci Martini corpus
A. B. in p'ziona nostra sub custod' v'ra
detent' ut dicebatur quocunque nomine cen-
seret' unacum die & causa cap'conis & de-
tentionis ejusdem A. ad faciend' & recipiend'
quod iidem Justic' nostri de eo cons' in hac
parte certis tamen de causis Justic' nostris
apud Westm' in hac parte movend' vobis
precipimus Quod in omnibus & singulis
Plitis & Querelis in Cur' nostra coram
vobis versus p'fat' A. B. mot' sive depen-
dend' pcedat cum effectu p'dict' h'ed de habend'
corpus p'dict' A. vobis nup in contrarium
inde direct' in aliquo non obstant, &c.

Scire Facias General' post annum & diem.

G Corgius, (&c.) Vic' L. saltem Cum
A. B. nup in Cur' nostra scilicet
Termino Pasche Anno Regni nostri pri-
mo coram Robto Cyze Mil' & Sociis suis
istunc Justic' nostris de Banco apud Westm'
per Cons' ejusdem Cur' recuperasset versus
C. D. nup de E. in Com' tuo Gen' als
dict' C. D. de E. in Com' L. Gen' tam
quoddam debitum 80 l. quam 40 s. qui ei-
dem A. in eadem Cur' nostra adjudicat'
fuer'

Com. Pleas. fuer' p dampnis suis que habuit occone de-
 tenconis debi illi unde convict' est put p
 Record & Process. inde in eadem Cur
 nostra coram Justic nostris apud Westm'
 residen liquet manifeste Executio tamen
 Judicii pdict adhuc restat faciens put ex
 insinuatione pdict' A. B. accepimus Et quia
 volumus ea que in eadem Cur nra rite
 acta sunt debet Executio demandari tibi
 precipimus quod p ppos & leges homi-
 nes de ballia tua Scire fac' pstat C. D.
 quod sit coram Justic nostris apud Westm'
 in Octab Scte Trinit' ostens' si quid p se
 habeat vel dicere sciat quare pdict' A. B.
 Executio versus eum de debito & dampnis
 pdict habere non debet juxta formam res-
 cupacon' pdict' si sibi viderit expedire Et
 habeas ibi nomina eoz' p quos ei Scir fec
 & hoc breve Teste Robto Cyre Mil apud
 Westm' 12 die Junii Anno Regni nostri
 primo.

*Note, One Scire Fac' and Nichil return-
 ed is sufficient in this Court to ground
 a Judgment and Execution, if it be a-
 gainst the Party himself.*

After

After the Sheriff has returned the *Scire fac'*. then you must prepare an Entry of the Judgment after this Manner :

L. II. **P**recept' fuit M^r cum A. B. nup^r per in Cur' Dom' Regis nunc *This Scire fac'* scilicet Termino Pasche Anno Regn' dict' ought to be Dñi Regis primo coram Rob^o Cyze entered on Mil & Sociis suis tunc Julii^o ipsius the Protho- notary's Re- Dñi Regis de Banco hic scilicet apud membrance, Westm' p cons^r ejusdem Cur' recuperasset and Rule versus C. D. nup^r de E. in Com' Lincoln given there- Gen^r als dict' C. D. de E. in Com' Lin- on in the colid Gen^r tam quoddam debitum 80 l. Margent, be- quam 40 s. qui eidem A. in eadem Cur' Judgment adjudicat' fuer' p dampnis suis que habuit signed ; or at occone detencion' debiti ill' unde condic' least Rules est put p Record & Process^r inde in ea given with dem Cur' dict' Dom' Regis nunc hic scilicet apud Westm' pdict' resident^r liquet the Seconda- ry. manifeste Executio tamen Judicii pdict' adhuc restat faciend^r put ex insinuatione pdict' A. acceperat Rex. Et quia, &c. p ppos, &c. Scire fac' plac' C. quod esset hic ad hunc diem scilicet in Octab^r S^ce Trin^{id} ostens^r si quid, &c. quare pdict' A. Executioⁿ versus eum de debito & dampn^o pdict' habere non deberet juxta formam recuperationis pdict' si, &c. Et modo hic ad hunc diem ven^o pdict' A. p T. P. Actor^u suu^m & obtulit se quarto die versus plac' C. de pdict' placito Et ipse solemniter exact^r non ven^o Et M^r modo mand^o quod nichil habet

Com. Pleas. habet, &c. nec est invent, &c. — Ideo' cons' est quod p'dict A. habeat Execution' plus p'fat' C. de debito & dampn' p'd' p' default', &c.

See before for a *Fieri fac'*, after *Nichil* returned on *Scire Fac'*, and Judgment.

Of Scire fac' against Bail.

HERE it is to be observed, That when the Plaintiff hath obtained Judgment against the Defendant, where Special Bail hath been given, the Plaintiff may either take the Defendant upon Execution, or prosecute his Bail.

The Manner of prosecuting the Bail is thus:

First, the Judgment being entred, he must sue forth a *Capias ad satisfaciendum* against the Defendant, directed to the Sheriff of the same County where the Action was first laid, and upon the Return thereof get the same returned *Non est inventus*; then he must procure a Writ of *Scire facias* against the Bail, (the Form whereof hereafter followeth) to shew Cause why the Plaintiff should not have Execution against them, according to the Recovery or Judgment so had against the Defendant. Upon which Writ, if the Sheriff do return *Scire fec'* you need not make

Hob. 196.

The *Scire fac'* must issue to the Sheriff of the County where the *Caption* was.

make out any second Writ ; but if he re- turn *Nihil habent*, then you must make out a second Writ of *Scire facias* and get it returned ; if it be returned also *Nichil*, (yet two *Nichils* amount to a *Scire feci*) then you must give Rules upon them in the Prothonotary's Office, and file them with the *Custos Brevium*. And thereupon, if the Bail shew not Cause to the contrary, then Judgment by Default may be entred against them in the same Prothonotary's Office, for the Sum in which they became Bail : And the Plaintiff may thereupon take out Execution against them, either by *Fieri facias* or *Elegit* ; but not by *Capias ad satisfaciendum*, because it is against the Tenor of the Bail.

Aliter.

There is also another way of Proceeding against the Bail, and that is by Original at the Common Law, for the Sum for which they become Bail ; and thereupon arrest their Bodies either upon the *Capias*, *Alias* and *Pluries*, or sue them to Exigent thereupon, and declare upon the said Recognizance, using all Proceedings thereupon as in an Action of Debt : And the Action ought to be laid in the County of *Middlesex*, where the Records do lie, and whence the *Venire* for that Respect must arise.

And

Com. Pleas.

And Note, That if the Bail cannot be arrested in *Middlesex* upon a *Capias*, &c. you may Return *Non est inventus*, &c. and thereupon sue forth a Writ of *Testatum*, and thereby arrest them in another County where they may be found, observing the like Proceedings as in an Action of Debt.

Scire Fac' upon a Recognizance against Bail.

G Corgius, (tc.) *Uic Widd salutem Cum* A. B. nup de, (tc.) nuper in Cur' nostra scit' primo die Febr' Anno Regni nost' primo Assumpsit super se p E. F. in 50 l. quod idem E. compareret in eadem Cur' nostra coram Iustic' nostris apud Westmon (Here put the Return) tunc pr' sequen' & sic de die in diem ad quemlibet diem placit' debi super demand 50 l. p quendam G. H. versus p'fat' E. in eadem Cur' nostra prosecut' quousque placitum illud terminetur & Iudicium inde reddit' fuit Et si contigerit p'dict' E. p'dict' placito convinci & Iudicium p p'fat G. vers' eundem E. reddi p'dict' E. p'fat' G. de debito & dampnis pro eodem G. in p'dict' placito versus p'fat E. recuperand vel ad iudicand satisfaceret vel quod ipse idem E. seipsum Prisonere de le Fleet occasione illa redderet quam quidem sum 50 l. p'dict' A. recogit

recogit de terris & catallis suis fieri & ad Com. Pleas.
opus & usum p̄dicti G. levare si conti-
gerit p̄dicti E. in aliquo p̄missorum des-
salt facere & inde legitimo modo convinci
put p̄ Record & Process. inde in eadem
Cur nostra residen̄ liquet manifeste Ac li-
cet p̄dicti G. postea scilicet Termino, (sc.)
Anno Regni nostri, (sc.) in eadem Cur
nra recuperavit versus p̄fat' E. p̄dicti 50 l.
de debito p̄dicti Acetiam 39 s. 4 d. pro
dampnis suis occasione debi illius prout p̄
Record & Process. inde in eadem Cur nra
coram Justic nostris apud Westm̄ p̄dicti
sibi residen̄ liquet manifeste p̄dicti tamen
E. corpus suum in Exec Judicii p̄dicti in
eadem Cur nostra coram Justic nostris
p̄dicti non reddidit nec idem E. p̄fat G.
de deb & dampnis p̄dicti satisfac' put ex
insinuacione ipsius G. accepimus Et quia
volumus ea que in p̄dicti Cur nra coram
Justic nostris p̄dicti rite act' & recognit'
sunt debet Execucione demandari tibi p̄cipi-
mus quod p̄ p̄bos & legles homines de
Ballia tua Scire fac' p̄fat A. quod sic co-
ram Justic nris apud Westm̄ a die S̄ci
Michis in tres Septiman̄ ostens' si quid p̄
se habeat vel dicere sciat quare p̄dicti 50 l.
de debito & 39 s. 4 d. de dampnis p̄dicti
p̄ ipsum in forma p̄dicti recognit' de terris
& cattallis suis fieri & p̄fat G. reddi non
debeant juxta forma recognicionis p̄dicti si
sibi viderit expediri Et habeas ibi nomina
eorum per quos ei S̄ci fac' Et hoc h̄t
Teste, (sc.)

Com. Pleas

Where the Bail is upon a *habeas Corpus*, the Attorney makes the *Scire Facias* out himself.

Note, This first *Scire Facias* is to be made out by the Filacer of the County, and if there be Occasion for a second, then the Attorney makes that out: *Teste* on the Appearance of the first, &c. and there ought to be 15 Days between the *Teste* and Return.

But see 1 *Lut.* 26. As to a Plea in Abatement, that there were only 14 Days between the *Teste* and Return of a *Scire facias*. It was answered and resolved, that it was good by the Statute of 17 *Car.* 1 *cap.* 6. *Par.* 8 and a *Respond' Ouster* was awarded.

Scire Fac' upon a Judgment against an Executor after a Year and a Day.

A. *Corgius*, (et.) *Wic' Verb salutem*
G Cum A. B. nuper in Cur' nostra scilicet Termino Pasche Anno Regni nostri primo coram Robto Cyre Mil' & Sociis suis Justic' nostris de Banco apud Westm', (et.) recuperasset versus E. F. nup de (et.) Executorem Testamenti S. T. nup p'dict (et.) tam quoddam debitum 20 l. de bonis & catallis que fuer' p'dict S. tempore mortis sue in manibus p'dict E. existent levand' quam 40 l. & 10 s. qui eidem A. in eadem Cur' nra adjudicat' fuer' p dampnis suis occasione detencon' debiti illius de eisdem bonis & catallis levand' si p'dict E. tunc bona & catalla que fuer' p'dict S. tempore

tempore mortis sue in manibus suis ad-
ministrand habuisset & si non habuisset tunc
dampna p^oict' de bonis & catallis ipsius
C. pp^o levand unde convict' est put p
Record, (sc. as last before in the other
manifeste) Execucio tamen Iudicii p^oict'
adhuc restat faciend put ex insinuatione
ipsius A. accepimus Et quia volumus, (sc.
(as before) quod p probos, (sc.) ostens
(sc.) quare p^oict' A. execuconem versu
eum de debito & dampnis p^oict' habere
non debeat si sibi viderit expediri Et ha
beas ibi nomina, (sc.) Et hoc b^ove Te
ste, (sc.)

Scire Fac' against Terre-Tenants, upon a
Judgment recovered against the Heir in
Debt.

Gorgius, (sc.) Vic Derb salutem Cum
J. K. Mil in Cur nra scilt Termi
no Pasche Anno regni nostri 13^o coram
Robto Cyre Mil & Sociis suis,) (sc. as
before) recuperasset versus A. W. nup de
L. in Com Poru Gen fratrem & heredem
S. W. Armig nup d^oict', (sc.) tam quod
dam debitum 500 l. quam 6 l. que eidem
(sc.) unde convict' est Execucio tamen Iudi
cii p^oict' quoad debitum p^oict' adhuc restat
faciend ac p^oict' A. mortuus est prout ex
insinuacione ipsius J. accepimus Et quia
volumus, (sc. as before) Scire fac' tene
terra & tenementorum de quibus p^oict' S.
obijt seiscus in feodo simplici & que de
scend p^olat' A. per descendid Hereditar' ac
E e 2

Com. Pleas. fratri & heredi p'dict' S. ut sint coram, &c.
 (as before) in Crastino Ste Trin ostens
 liquid, (ac. as before) quare p'dict' J. Cres
 cution versus eos de debito & dampnis p'di
 dia' de terris & tenement' illis levand
 here non debeat juxta formam Recuperas
 tionis p'dict' si sibi viderit expediri * Et
 * If it be Te- statum Scire fac' then add, heas ibi nomina, (ac.) Et hoc breve Teste,
 Et unde, &c. (ac.)

Et unde Vic' noster London mand Justic'
 nis apud Westm in Octabis S'ci Michis
 ult' p'terit' quod non sunt aliqui tenentes
 nec aliquis tenens aliquorum terrar' & te
 nementorum de quibus p'dict' S. obiit seisi
 sit' in feodo simplici & que descend' p'fat' A.
 p' descensum Hereditar' ut fratri & heredi
 ejusdem S. in Ballia sua quibus vel cui
 Scire fac' potuerunt cum testat' sit in ea
 dem Cur' nra quod diversi sunt tenentes
 terrar' & tenementorum de quibus p'dict'
 S. obiit seisi' in feodo simplici & que de
 scend' p'fat' A. p' descensum Hereditar' ut
 fratri & heredi ejusdem S. in Com' tuo
 quibus Scire fac' possis Et habeas ibi no
 mina, (ac.) Et hoc breve Teste, (ac.)

Superfedeas pro Attorn' de Communi Ban
 co implacitat' in Banco Regis.

Gorgius, &c. Justic' nrs ad Placita
 coram nobis tenend' assign' ostens
 est Rob ex parte A. B. un' Attorn' Cur
 nie de Banco quod cum ipse communis
 Attorn' in Banco p'dict' existat & diversa ne
 gotia

gotia quamplur' Iegeorum nostroꝝ de Com. Pleas.
 eodem Banco prolequen' & defenden'
 ut eozum Actoꝝ prolequitur & defendit
 Idemque A. & omnes al' Actoꝝ in Ban-
 co p̄dict' dum sic aliqua negotia in Banco
 p̄dict' prolequantur aut defendunt sub pro-
 tectione n̄ra esse debeant & essent juxta
 libertat' & privileg' Cur' nostre de Banco
 p̄dict' a tempore cuius memoria hominum
 non existit usitat' & approbat'. Quia tamen
 R. T. M̄r libertat' & privileg' Cur' no-
 stre de Banco p̄dict' ignoscens quandam
 Billam de quadam Transgr' p̄ p̄fat' A.
 eidem R. ut asseritur in Com' nostro W.
 p̄petrat' coram vobis impetravit & p̄secut'
 fuit in Cur' nostre de Banco contempt' &
 ipsius A. & Ligeoꝝ nostroꝝ quoꝝ Actoꝝ
 idem A. existit dampnum non modicum
 & gravamen ut accepimus Et ideo vo-
 bis mandamus quod de quibuscunque Pla-
 citis & Querelis in Cur' n̄ra coram vobis
 versus p̄fat' A. mot' seu movend' (Placitis
 de libero Tenemento Felon' & appell' dun-
 tarat except') super sed' omnino partibus in
 Placitis & Querel' p̄dict' ex parte n̄ra
 dicen' quod Plita & Querelas suas in Cur'
 n̄ra coram Justic' n̄ris de Banco p̄-
 dict' p̄lequantur si sibi viderint expediri
 Teste, (cc.)

Superfedeas (quia improvide) sur Habeas
Corpus.

Gorgius, (et.) Wic S. salutem Cum
nup tibi per breve nrm pcepimus
quod haberes A. B. in Prisona nra sub
custod tua existend unacum die & causa cap-
tionis & detentionis ejusdem A. coram Jus-
tic nris apud Westm in Octab Scie Trin
prox' futur' ad faciend & recipiend quod
Cur' nostra in ea parte cons' Quia tamen
Justic nostris pdict apud Westm pdict
satis constat quod pdict bre de Habeas
Corpus improvide emanabit Ideo tibi pci-
pimus quod pstat A. occone pmiss' mole-
stand' seu de brevi pdict coram Justic nris
apud Westm retornand' aut de brevi illo
aliqualit' exequend' superled' omnino Tes-
te, (et.)

Quia breve erroneice emanavit.

Cum nuper tibi p bre nrm pcepimus
quod caperes, (et.) unde convict' est Quia
tamen Justic nris pdict satis constat quod
bre nrm de Cape Cur' nra pdict minus
rite & erroneice emanabit Id tibi pcpimus
quod de pstat A. capiend' seu in aliquo mo-
lestand' occone pmiss' superled' omnino, et.
Et si ipsum A. ea occone & non alia ce-
peris

peris tunc ipm A. ad largum ire pmit- Com. Pleas.
tas Teste, (sc.)

Declarations in the Common Pleas.

Cooke.

Pasch. duodecimo Georgii Regis.

Homs II. **C**. D. nuper de O. in Com^{Declaration}
de O. in Com^{S. Gen} S. Gen sum fuit ad re^{in Debt on}
Ipond A. B. Gen (if at the Suit of the^{a Bond.}
Sheriff, or late Sheriff, say, ad respond
E. F. Armig^{Uic} or nup^{Uic} Com^{pred} de
plito quod reddat^{ei} 100 l. quas ei debet
& injuste detinet, &c. Et unde idem A. p
G. H. Accord sum die quod cum p^{dict} C.
primo die Maii anno Regni Dni Regis
nunc duodecimo apud O. p quoddam scriptum
suum obligatorium concessisset se teneri ei-
dem A. (if for the Sheriff, say, teneri eis
E. adunc Uic Com^{dict} p^{dict} existen^p nomen
E. F. Armig^{Uic} Com^{S.} p^{dict}) in p^{dict}
centum libz^{solvend} eidem A. cum inde re-
quisit^{fuisse} p^{dict} tamen C. licet sepius re-
quisit^{p^{dict}} centum libz^{eidem} A. non-
dum reddidit set ill^{ei} hucusq^{reddere}
contradixit ac adhuc contradic^{unde} die q^d
deteriorat est & dampnum hec ad valenc²⁰
l. Et inde pduc^{sectam}, &c. Et p^{fert}
hic in Cur^{scriptum} p^{dem} quod debitum
p^{dict} in forma p^{dict} testatur cusus dat^{est}
die & anno supradictis, &c.

If the Defendant be in Custody in any County-Gaol, no Notice is taken thereof. (*Vide ante* : In *B. R. aliter.*)

Note, The *Common Pleas*, when they deliver *Narr's* upon Bonds, usually add the *Li' Lo'* thus :

Imparlance. Et p̄dict C. p̄ J. S. Attorn̄ suum ven̄ & defend̄ vim & injur' Quando, &c. Et p̄t̄ audit' scripti Obl̄ p̄dict Et ei legitur, &c. p̄t̄ etiam auditum Condicion̄ ejusdem scripti Et ei legitur in hec verba ff. The Condition, (&c. to the End) Quibus legis & auditis idem C. p̄t̄ licent' inde interloquendi hic usq; in Crō S̄cē Trin̄ Et habet, &c. Idem dies dat̄ est p̄fat A. hic, &c.

But if the Plaintiff does not give the Defendant Oyer of the Bond, he may demand it and refuse to plead till he has it, but if he will neglect to crave Oyer it is his own Fault, which ought not to prejudice the Plaintiff, for the Plaintiff is not obliged to give him Oyer unless he demands it ; the Defendant may plead without Oyer of the Bond if he thinks fit. In making up the Issue by *Non est factum*, no Notice is taken of the Imparlance or Condition.

The

The Imparlance or Li' Lo' to other
Declarations, is only thus:

Et p̄dict C. p J. S. Attoꝝ suū veñ &
defend vīm & injur' quando, &c. Et pet'
licenc' inde interloquend' hic usque in * Crō * First Day
S' re Trid Et habet, &c. Idem dies dat est of the next
fat' E. hic, &c. Term.

And sometimes they only write thus:

Ad Lō usq Trid Term' or at the
first Day of the next Term) p Chambers
(naming the Defendant's Attorney.)

Note, If it be an Imparlance for an
Attorney or privileged Person, it
must be to a Day certain.

Note also, That a Special Imparlance
is worded thus:

Et p̄dict C. p J. S. Attoꝝ suū veñ
Et salvis sibi omnibus advantagiis tam ad Special Im-
veñ quam ad Parraconem p̄dict pet' li- parlance.
cenc' inde interloquendi, (&c.) as before.

Debt.

Debt.

Upon an *Emisset*, or for Goods bought.

ff. A. B. nup de T. in Comd p'dict Gen sum fuit respondens F. F. in placito quod reddat ei 20 l. quas ei debet & iniuste detinet, &c. Et unde idem E. p G. H. Attozid suum dicit quod cum p'dict A. (tali die & anno) apud D. emissit de eodem E. unam Equam p p'dict 20 l. solvend eidem E. cum inde requisit' fuisset p'dict' tamen A. licet sepius requisit' p'dict 20 l. eidem E. nondum reddidit set ill' ei hucusqz reddere contradixit & adhuc contradic' unde dicit quod deteriorat' est & dampnum habet ad valenc' 20 l. Et inde pduc' sectam, &c.

Debt.

Mutuatus
upon a War-
rant of At-
torney to
confess a
Judgment.

Upon a *Mutuatus*, or for Money bor-
rowed.

(Which is commonly used upon a War-
rant of Attorney, to confess a Judg-
ment without a Bond.)

Cooke.

Soms' ff. A. B. nuper de K. in Comd p̄s
Gen̄ sum̄ fuit ad respondend̄ E. F. de
pl̄ito quod reddat ei 100 l. quas ei debet
& injuste detinet, &c. Et unde idem E. F.
p̄ G. H. Att' suum dic' quod cum p̄dict' A.
(such a Day and Year) apud D. mutus
at̄ fuisset de eodem E. p̄dict' 100 l. solvend̄
eidem E. cum inde requisit' fuisset p̄dict'
tamen A. licet sepius requisit' p̄s 100 l. eidem
E. nondum reddidit set ill' ei hucusque
reddere contradixit & adhuc contradicit un-
de dicit quod deteriorat' est & dampnum
habet ad valent' 20 l. Et inde p̄duc' Sec-
tam, &c.

Non Inform' p̄ A, B. (naming the At-
torney for the Defendant by the Autho-
rity of the Warrant.)

'Tis necessa-
ry upon this
Warrant of
Attorney, to
have a Re-
lease of Er-
rors.

Then you sign Judgment with the Pro-
thonotary; Fee 3 s. Then enter up the
Judgment by Non Inform', &c. Vide
antea.

Debt.

For Money due upon Account.

ff. A. B. nuper de, (&c.) sum̄ fuit ad
respondend̄ E. F. de placito quod reddat ei
50 l. quas ei debet & injuste detinet, &c.
Et unde idem E. p̄ G. H. Attoz̄n suum
dic' quod cum p̄dict' A. (tal' die & anno)
apud

Insimul com-
putasset.

Com. Pleas. apud C. computasset cum p̄fat E. de diversis Denar summis eidem E. per p̄fat A. ante tempus illud debet' & solubet' Et sup Compō illo p̄dict A. invent' fuit in Arrerag' erga eundem E. in 50 l. per quod Accō accrebit eidem E. ad erigend' & habend' de p̄fat A. p̄dict 50 l. p̄dict tamen A. licet sepius requisit' p̄dict 50 l. eidem E. nondum reddidit set ille ei hucusq; reddere contradixit & adhuc contradic' unde dicit quod deteriorat' est & dampnum habet ad valenc' 30 l. Et inde p̄duc' sectam, &c.

In Case *sur Assumpsit*.

Upon a *Mutuat'us* for Money lent and delivered.

A. B. nup, (&c.) attach' fuit ad respond' C. D. de p̄lito transgr' sup casum Et unde idem C. p E. F. Attorn suum queritur quare cum p̄dict A. decimo quinto die Junii anno Regni Dom' Georgii Secund' nunc Regis Magn' Brit, &c. primo apud G. in consideratione quod idem C. ad special' instanc' & requisit' p̄dict A. ex mutuo dedisset & delibasset p̄dict A. quinque Libz' legalis monete Mag' Brit sup se assumpsit & eidem C. ad tunc & ibm 'fidelit' p̄misit qd' riple idem A. p̄dict Quinque Libz' eidem C. cum inde postea requisit' fuisset bene & fidelit' solbe & contentare vellet p̄dict tamen A. p̄misit & assumption' suas p̄dict mie' curans set machinans & fraudulent' intendens eundem C. in hac parte callide & subdole decipere & defraudare p̄dict Quinque Libz' seu aliquem denar

denar' inde eidem C. licet ad hoc faciend' Com. Pleas.
 p'dict' A. postea scit (such a Day and Year) & sepius postea apud G. p'dict' per
 eund' C. requisit' fuisset non solvit set ill
 ei solvere o'io recusabit Et adhuc recusat
 ad dampnu' ipsius C. (tc.) Et inde p'duc
 set', &c.

Indebitat' Assumpsit, upon a Mutuatus.

For Money had and received by the De-
 fendant.

Ut supra usq; ——— Quare cum p'dict
 A. 12 die Junii anno Regni dic' Domi
 Regis nunc primo apud G. Indebitat' fuisset
 eidem C. in decem Libz' in pecuniis
 numeratis p' p'fat' A. de eodem T. ante
 tempus illud mutuat' habet & recept' (Or
 thus, Indebitat' fuisset eidem quer' in 10 l.
 legalis monet' Mag' Writ p' consimili de-
 nar' summa p' p'dict' Def. de p'fat' quer'
 ante tempus ill' mutuat' hit & recept') Et
 sic inde Indebitat' existend' p'dict' A. in
 cons' inde super se assumpsit & eidem C.
 p'dict' 12 die Junii anno primo supradicto
 apud G. p'dict' fidelit' promisit quod ipse
 p'dict' A. p'dict' 10 l. eidem C. cum inde
 postea requisit' fuisset bene & fidelit' solvere
 & contentare vellet p'dict' tamen A. pro
 mission' & assumpcion' suas p'dict' mie' cu-
 rang, (tc. as next before)

Decla-

Declaration against one of the Endor-
sors of a Promisory Note.

Pasch. anno 13 Georgii Regis.

Cooke.

The Note.

Defendants
Indorsment
to G. H. or
Order.

London n. **C**. D. nup de London Arm
Attach fuit ad respondent
A. B. de plito Transgr' sup casu, &c. Et unde
idem A. p W. N. Attoꝝ suum queritur
quare cum quidam E. F. post pꝛimum di-
em Maii Anno Dom 1705. scilicet quarto
die Octob Anno Dom 1726. apud London
pꝛ in Paroch hꝛe Marie de Arcub in Warda
de Cheap fec' quandam notam suā in
scriptis manu sua pꝛopꝛ' subscript' gerend'
dat' eisdem die & anno ult' supradict' & per
eandem notam pꝛomissit solvere pꝛict' C.
D. vel ordin' quindecim libꝛ' uno mense
post dat' ejusdem note anglige (after Date)
pꝛo valor' recept' Cumqꝫ etiam postea scilicet
quinto die ejusdem mensis Octob Anno
Dñi 1726. apud London pꝛict' in Paroch
& Warda pꝛict' dñs C. D. (pꝛict' quinde-
cim Libꝛ' in nota pꝛict' menconat' ei in-
solut' existend') p quoddam Indorsamentu
sui manu sua pꝛopꝛ' sup ill' notam indor-
sat' ordinabit & appunctuabit content' ejus-
dem note scilicet pꝛict' quindecim libꝛ' solvend'
cuidam G. H. vel ejus ordin' pꝛo valor'
recept' qui quidam G. postea scilicet eisdem
die Anno & loco ult' supradict' pꝛict' quin-
decim

decim libz' ei sicut insoluit' existend p In Com. Pleas.
 dozsamentu manu sua propz' sup eandem
 notam indorsat' ordinabit & appunctuabit con-
 tent' ejusdem note scilicet p'dict' quindecim G. H. Indors-
 libz' solvend' cuidam J. K. vel ejus ordin' ment to J.
 qui quidam J. postea scilicet eisdem die an- K. or Order.
 no & loco ult' supradict' p'dict' quindecim
 libz' ei sicut insoluit' existend per
 indorsamentu manu sua propz' super e J. K. In-
 andem notam Indorsat' ordinabit & ap- dorsment to
 punctuabit content' ejusdem note videlicet p'dict' the Plaintiff
 quindecim libz' solvend' p'fat' A. pro valo-
 re recept' ac idem A. in facto die quod
 post separat Indorsamentu & ordinacoem p's-
 sic ut p'fertur fact' scilicet octavo die
 Novemb' anno ult' supradict' apud London
 p'dict' in Paroch' & Ward p'dict' ipse idem
 A. ostendebat notam p'dict' & separat indorsam- Notice to the
 ment p'dict' sup eandem fact' p'dict' E. F. Drawer of
 & adunc & ibm requisivit p'dict' E. F. the several
 ad solvend' content' ejusdem note videlicet p's- Indorsments
 quindecim libz' in eadem specificat' secund' and Request
 tenor' note & separat indorsament' p'dict' p- to pay.
 fat' A. sed idem E. F. easdem quindecim
 libz' seu aliquam inde partem eidem A. non
 solvit sed ill' ei hucusque solve' seu p' eis Drawer re-
 dem aliquant' contentare oio recusabit Un- fused to pay;
 de idem A. postea scilicet eisdem die anno & Notice
 loco ult' supradict' p'fat' C. D. notie dedit thereof to
 rone quor' quidem p'miss' & vigore Sta- the Defen-
 tut in humoi casu' edit' & p'bis p'fat' C. dant.
 D. onabil' deveni' & onabil' exist' ad
 solvend' eidem A. p'dict' quindecim libz'
 in eadem nota mencionat' Et sic onabil' ex-
 istend idem C. D. in cons' inde postea scilicet
 eisdem die anno & loco ult' supradict' sup
 se

Com. Pleas. se assumpsit & eidem A. ad tunc & ibid' si
 delit' pmisit quod ipse idem C. D. pdict'
 quindecim libz' eidem A. cum inde postea
 requisit' esset bene & fidelit' solv' & con-
 tentare vellet, Cumque etiam pdict' C. D.
 postea scit' eisdem die anno & loco ult'
 menconat' indebitat' fuisse eidem A. in
 al' quindecim libz' legalis monet' Magis
 Indebitat' Bz' p' consili denar' suum p' pdict' C.
 assumpsit for D. p' pdict' A. & ad ejus usum ante tem-
 Money had pus ill' hic' & recept' & sic inde indebita-
 and received tat' existend' idem C. D. postea scit' eis-
 dem die anno & loco ult' menconat' in cons'
 inde super se assumpsit & eidem A. ad tunc
 & ibid' fidelit' pmisit quod ipse idem C.
 D. pdict' quindecim libz' ult' menconat'
 eidem A. cum inde postea requisit' esset be-
 ne & fideliter solv' & contentare vellet
 Cumq; etiam pdict' C. D. postea scit' eis-
 dem die anno & loco uli' menconat' in-
 debitat' fuisset eidem A. in al' quindecim
 libz' silis legalis monet' p' liti denar' suum
 p' eundem A. ad spial' Instanc' & requisit'
 coit' & ad opus & usum dñi C. D. ante tem-
 pus ill' expendit' extrapoit' erogat' & solut'
 & sic inde indebitat' existend' idem C. D.
 postea scit' eisdem die anno & loco ult'
 supradict' in Cons' inde super se assump-
 sit & eidem A. ad tunc & ibidem fidelit'
 promisit quod ipse idem C. D. dñas quin-
 decim libz' ult' menconat' eidem A. Cum
 inde postea requisit' esset bene & fidelit'
 solv' & contentare vellet Cumque etiam
 pdict' A. postea scit' eisdem die Anno &
 loco ult' menconat' mutuo dedisset & acco-
 modas' eidem C. D. al' suum quindecim

For Money
laid out and
expended.

For Money
lent.

tim libz' filis Legalis monet' idem C. D. Com. Pleas.
 in Cons' inde sup se assumpsit & p'dict'
 A. adtunc & ibidem fidelit' p'misit quod
 ipse p'dict' C. D. p'dict' quindecim libz'
 ult' menconat' p'fat' A. cum inde postea
 requisit' esset bene & fidelit' solv'd & contens-
 tare vellet p'dict' tamen C. D. separaf' p'mi-
 con'd & assumpcon'd suas p'reb in forma p'o-
 fact' mie curans set machinand & fraudu-
 lent' intendend p'fat' A. in hac parte cal-
 lide & subdole decipe & defraudare p'reb
 separaf' denar' surd seu aliquem inde denar'
 eidem A. nondum solvit nec ei p' eisdem
 aliqualit' contentabit licet ad hoc faciend
 p'reb C. D. postea scit'e eisdem die anno
 & loco ult' supradia' & sepius postea p'eundem
 A. requisit' fuis' set ill' ei hucusque solvere
 seu p' eisdem aliqualit' contentare idem C. D.
 oio recusabit & adhuc recusat ad damp-
 num ipsius A. quindecim libz' & inde p'-
 duc' sectam, &c.

Narr' on a Promisory Note against the
Drawer.

Pasch. decimo tertio Georgii Regis.

Cooke.

Michd ff. **C** Arolus D. nup de Westm in
Comd Michd Ar. Attach fuit
ad respond A. B. & J. S. de plito Transgr
sup calid &c. Et unde iidem A. & J. p E.
F. Attoz suum queruntur quod cum
pred Carolus D. post primum diem Maii
Anno Dom millimo septingentimo quins
to scilicet decimo die Septembz anno Dni
millimo septingentimo vicesimo sexto apud
Westm pdict in Comd Michd pd fec
quandam notam suam in script vocat a
Promisory Note manu sua ppz adinde
subscript gerend dat eisdem die & anno
ult supradia & eandem notam adtunc &
ibm cuidam G. H. delibavit p quam quis
dem notam idem Carolus D. promisit sol
be pdicto G. H. per noen Mri G. H.
vel ordin Centum libz sex mensib post
dat ejusdem note p valore recept idem
que G. H. postea scilicet & infra pred sex
menses scilicet eisdem die & anno ult su
pradia apud Westm pd in Comd pd cen
tum libz in nota pd menzonat seu ali
quam

quam inde parceret mīe solut' seu satis Com. Pleas.
 fact' existend' p quoddam Indorsament' sus-
 per notam pō fact' & script' ac manu ppz'
 ipsius G. subscript' ordinabit & appunctua-
 bit pzed Centum libz' in nota pzed men-
 tionat' fore solut' eisdem A. & J. ac postea
 scilicet eisdem die & anno ult' supradict' is-
 dem Carolus D. apud Westm' pōict in
 Com' pōict' de Indorsament' pōict' hūc
 notic' ac rōne pmiss' nec non vigore Sta-
 tut' in hūmōi casu nup' edit' & p'bis' is-
 dem Carolus D. Onerabilis deven' ad
 solvend' eisdem A. & J. pōict' Centum
 Libz' in nota pōict' mentionat' secund' for-
 mam & effect' ejusdem note & Indorsas-
 ment' pōict' lupinde sic ut p'fert' fact' Et
 sic oñabil' eriden' pōict' Carolus D. in
 cons' inde postea scilicet eisdem die & anno
 ult' supradict' apud Westm' pōict' in com'
 pōict' sup se assumpit & eisdem A. & J.
 adunc & ibm fidelit' promisit ad solvend'
 eisdem A. & J. pōict' Centum libz' in no-
 ta pō mentionat' secund' tenorem ejusdem
 note & Indorsament' pō pōictus tamen, &c.



Narr' upon a Promifory Note againſt
the Drawer.

A. verſ' B. de placito trans' ſuper Caſum,
Ec.

As in the
Note to
Bearer, &c.
Vide Stat. 3
and 4 An. c.
9. & Corn-
wals Tables.

ET unde idem A. per, &c. Attoꝝ su-
um queritur quare cum p̄s B. post
p̄imum diem Maii anno Dñi 1705. scilicet
30 Maii anno Domini 1711. apud Westm'
in Com' p̄es fec' quandam Notam suam
in scriptis vocat' a Promifory Note, ma-
nu sua ppz' subscript' geren' dat' eidem
die & anno ult' mense Ac notam ill' ei-
dem A. adtunc & ihm delibavit p̄ quam
quidem Notam idem B. pmisit solvere
eidem A. (vel ordini suo) summam 10 l.
in duobus mensibus post dat' (or, infra
Vide Stat. 3 spacium duorum mensium post dat') ejus-
dem Note,) (or, super demand, &c. as by
the Note) Ac rōne inde necnon vigore
Statuti in huiusmodi Casu nuper edit' &
p̄vis' idem B. onerabit' deveni' ad solvend'
eidem A. eandem denar' summam secund'
tenorem Note p̄s Et sic onerabit' existend'
p̄s B. in cons' inde postea scilicet p̄s 30
die Maii Anno Dom' 1711. supradict' ac
pud W. p̄s sup se assumpsit & eidem A.
adtunc & ihm fidelit' pmisit ad solvend'
ei p̄s denar' suam secund' tenorem ejus-
dem Note, p̄s tamen B. promission' & as-
sumpcion' suas p̄s (ut in al.)

See

See before in the *King's Bench*, for a Declaration upon a Promisory Note.

Indebitat' Assumpsit.

For Goods and Merchandizes.

Ut supra usq; — Indebitat' fuisset ei-
dem C. in 20 l. legalis monete Magni
Brit' p diversis bonis Mercimoni & Mer-
chandizis p pfat' A. de eodem C. ante
tempus illud empt' hit' & recept' (Or thus,
Per pd C. eidem A. ante tempus illud
vendit' & deliberat') Et sic Indebitat' exi-
sten' pd A. postea scilicet (such a Day and
Year) apud G. pdict' in consideraone in-
de sup se assumpsit (&c.) Or thus, Et sic
inde indebitat' existend' idem def. in cong'
inde postea scilicet eodem die
. anno supradicto apud
. sup se assumpsit, &c. (as before.)

Note. These Narr's are usually laid
three Ways, viz. Indebitat' ass' pro
10 l. p bonis Mercimoni & Merchandiz'
Quantum valebant p al' 10 l. & in-
simul computasset pro al' 10 l. &c.



Insimul Computasset in Casa.

Attach fuit, &c. ut antea usque ———
 Quare cum p̄dict' A. p̄mo die Maii an-
 no Dom' 1726. apud G. insimul com-
 putasset cum p̄fat' C. de diversis denar' sum-
 mis eidem C. p̄ p̄fat' A. ante tempus il-
 lud debit' & insolui' Et super Compo' illo
 idem A. invent' fuit in arrearag' erga e-
 undem C. in 10 l. legalis monete Mag'
 Writ' Et sic in arrearag' invent' existend'
 p̄d A. in consideracone inde postea scit'
 eidem die & anno apud G. p̄d super se
 assumpsit & eidem C. adtunc & ibm fidelit'
 p̄misit quod ipse idem A. p̄d 10 l. eidem
 C. cum inde postea requisit' fuisset bene &
 fidelit' solvere & contentare vellet p̄d' tamen
 A p̄mission' & assumpcion' suas p̄dict' mie-
 curans, &c. (as before.)

Note, That upon several Narr's joined
 in one Declaration, 'tis convenient
 to leave out (*in toto se attingen'*) to
 prevent mis-reckoning, which may
 prove erroneous.

See for the Laying of several Promises
 in one Narr' in the Declarations for
 the *King's Bench*, which is the same
 in the *Common Pleas*, mutat' mutand';
 but more particularly in the 2d Part
 of *Instr. Cler.*

For an Executrix ——— say ——— ad Com. Pleas
respondens A. B. Vid. Executric Testi
G. H. de plito (tc.) Et pferit hic in Cur
ram scriptum (tc.) quam Literas Testas
mentarias (tc.)

A Declaration in Ejectment.

Cooke.

Trin' primo Georgii secund' Regis.

Soms' ff. **A.** B. nup de C. in Comd
ad respondens E. F. de placito quare Vi
& Armis unum Messuagium, tc. (naming
them) cum ptiid in G. que H. J. Gen
eidem E. dimisit ad terminid qui nondum
pccitit intravit & ipsum a Firma sua pō
esecit Et alia enormia ei intulit ad grave
dampid ipsius E. Et contra pacem Dñi
Regis nunc Et unde idem E. p R. G.
Attozid suum queritur quod cum pō H. J.
primo die Marti anno Regni Dñi Regis
nunc primo apud G. dimisisset eidem E.
Tenta pō cum ptiid habens & occupant
Tenta pōict cum ptiid eidem E. & assign
is a primo die Marti tunc uli' pccit' us
qz finem & terminid Trium annorum ex
tunc p' sequens & plenar' complens & fi
niens virtute cuius dimissionis idem E.
in Tenta pō cum ptiid intravit & fuit in
de possessionat ipsoz E. sic inde possessi
onat existens pō A. postea scitit eodem

*Note, If the
Land or Pre-
misses be in
several Pa-
rishes, the
Venne must
be but in one.*

Com. Pleas. primo die Martii anno primo supradicto Ut & armis, &c. in Tenta pō cum pertinē que p̄fat H. J. eidem E. in forma p̄dict dimis sit ad terminum qui nondū p̄terit intras bit & ipsum E. a Firma sua p̄dict' ejecit & alia enormia, &c. ad grave dampnum, &c. Et contra Pacem, &c. Unde dic' quod deteriorat' est & dampnum habet ad valentiam 20 l. Et inde p̄duc' sedam, &c.

Note, This Ejectment being usually to try a Title, the Plaintiff makes some Friend Defendant; and then Notice is given to the Tenant in Possession to defend his Title, after the Manner of the *King's Bench*, viz. on the Bottom or Back of the Narr'. *Vide* p. 219. for the Form thereof.

If there be Occasion to make an Affidavit of the Service of the Declaration to ground a Rule for Judgment by Default; you annex a Copy of the Declaration wrote upon a double Penny Stamp to the Affidavit: The Form of the Affidavit you will find in the *King's Bench*, p. 221.

And after a Motion, you call on the Secondary to draw up the Rule against the casual Ejector, for which he now takes 6 s. viz. Affidavit 2 s. Regul' 2 s. Debit' R's. 2 s. and if the Affidavit was taken in the Country 1 s. more.

Then you carry this Rule to the Prothonotary to sign, for which he takes 2 s. but now the Secondary usually takes the 2 s. which makes 9 s.

Note, The Secondary upon the Motion, keeps your Affidavit and Narr', so that you ought to have another filled up by you, or to fill up one by that in his Custody.

But if the Tenant appear, and is willing to enter into a Rule by Consent, it is to be drawn up after this Manner, viz.

Cooke.

Hill' Georgii Regis duodecimo.

Note, These Rules are to be had ready printed.

Lincolni^æ ff. **O**rdinat' est per Cur' ex assensu J. S. Attoz^{um} Quer^{entis} & H. Y. Attoz^{um} p^{ro} A. B. qui clam' titulus in Teñtoz^{um} in questione quod idem A. B. admittatur Def. quodq^{ue} idem A. indilate comparebit p^{ro} Attoz^{um} suum p^{ro}dict qui recipiet narraconem ac p^{ro}litabit adinde General' Exit' hoc Termino Et ad triaconem superinde habend' idem A. comparebit in p^{ro}p^{ri}et' p^{ro}sol^{ut} sua aut p^{ro} ejus Consilium vel Attoz^{um}

Denn versus Fenn de uno mess. uno horreo uno stabulo, &c. cum pertin' in S. in Com' L. ex dimissione R. G.

Com. Pleas.

Note, This
Rule need
not be
Stampd.

Attorn' & cogit dimissionem intracoem & ac-
tual expulsiom de tant Tentor in Narr'
Quer' spec' quant' exist' in possessione dic-
ti Def. vel ejus tenend aut aliquarum p-
sonarum clamand per vel subter ejus titulo
vel quod in defect' inde intretur Judicium
versus Def. R. Fenn casualem Ejectorem
set parcatur prosecuco versus eum quousqz
defalt in aliquo pmissor' sit & ex consili
assensu ulterius Ordinatur est quod si rone
hamod defalt' querend deveni non proxi sup-
riacione dic' A. null capiet inde Advan-
tagium set solvet eidem Querend custag p
Prothonotar' pinde taxand Et ulterius Or-
dinatur est quod dimissor' Querend sit ones-
tabil cum solucione custag pstat A. per Cur
hic aliquo modo allocand vel adjudicand.

Per Cur

J. S. pro Quer

R. S. pro Def.

The Attornies having written their
Names to the Bottom of the Rule, then
The Defen- you enter an Appearance upon it, with
dant's Attor- the Filacer of the County, for which
ney may he takes 1 s. and if two Defendants, 1 s.
sign the Rule 4 d. then you carry it to the Prothono-
by himself, tary to pay for **LD Lo'**, who takes 2 s.
and leave it then to the Secondary who takes 1 s.
with his Plea 6 d. besides Duty, and keeps your Rule
in the pro- per Office. by Consent, and fills you up two others
per Office. after this Mannner :

Cooke.



Cooke.

Hill 12 Georgii Regis.

Denn versus Fenn ff. Ordinat est per
Cur' ex assensu, &c. (as before.)

p Cur'

R. Cooke,

No adding
any but Te-
nants in Pos-
session to be
Defendants,
without
Rule of
Court.


One of which afterwards you affix to
a Copy of the Issue, and deliver it to
the Defendant's Attorney, who usually
has it *gratis*, because he does not put
you to the Trouble of a Motion, and
you may also then give him Notice of
Trial, if you think fit.

Yet I have known the Fees of Deli-
very thus :

| | l. | s. | d. |
|---------------------|-------|----|----|
| Cop' Exit' _____ | 0 | 2 | 6 |
| Dimid' reg' _____ | 0 | 3 | 6 |
| Appearanc' _____ | 0 | 2 | 0 |
| Intr' Placit' _____ | 0 | 2 | 0 |
| War' Att' _____ | 0 | 0 | 8 |
| | <hr/> | | |
| | 0 | 10 | 8 |

Of

Com. Pleas.

 Of which the Defendant's Attorney will abate about 5 s. for his half Fee.

If you are to sign Judgment against the casual Ejector, first search the Prothonotary's Plea-Book; if no Plea be, you must stamp the Declaration you kept by you with a double Half-Crown Stamp, then affixing the Rule against the Casual Ejector the Prothonotary will sign your Judgment, for which he takes 12 s. 8 d. after this you may make out your Writ of Possession; Fee for signing is 1 s. 4 d. then enter your Judgment by *Nil dicit* on a Roll, &c.

If the Plaintiff gives Notice of Trial and proceeds not at the Assizes, then upon an Affidavit made thereof the Defendant may have a Rule of Course for the Prothonotary to tax Costs for the Defendant's Attendance, viz. Mich 12 Georg^o 2^o Regis 24 Nov. Super Sacro^o R. B. Gen^o ordinat^o est quod dimissor quer^o solvet Def. vel ejus Actor^o Custag^o per W^ond F. taxand^o in p^osent^o ejusdem dimissor^o quer^o vel ejus Actor^o si adesse voluit p^o ejus attendant^o ad ult^o Assizas p^o Com^o H. ten^o eo quod idem dimissor quer^o non processit ad triac^oon^o juxta notit^o dat^o Dist^o dimissor Quer^o super notit^o hujus Reg^ote sibi vel Actor^o suo dand^o ostendit Causam sufficiens in contrar^o coram p^ofat^o W^ond F. tempore taxa^oon^o custag^o ill^o.

p Cur

Townsend.

Note,

A. v. B. in
G. ex dimi.
S. E.

Note, Upon this Rule (the Attorney not attending in reasonable Time) the Prothonotary allows common Costs 33 s. 4 d. and takes no Fee thereon.

**A Declaration by an Attorney of the
Common Pleas.**

London ff. A. B. nuper de, (&c.) at-
tack fuit p hre Dñi Regis de privileg'
Cur' hic emanand ad respond J. S. Gen'
und Attoznd Cur' Dom' Regis de Banco
hic juxta libertat & privileg' de p'dict' Ban-
co a tempore quo non extat memoria usi-
tat & approbat in eadem de p'lito Transgr'
super Casum &c. Et unde idem J. in p'p'z'
person' sua queritur quare cum (&c.) Et
inde pduc' sec', &c.

Pledges must be added to a Bill by
an Attorney or Clerk, or otherwise
Cause of Demurrer.

Pleg' de Pros' } Joſes Doe.
 } Ricus Roe.

See afterwards for a Narr' against an
Attorney.

De-

Declaration brought by one of the Prothonotary's Clerks.

Cooke.

Note, The Prothonotary struck these Words out.

N. A. B. nup de C. in Com^o p^{re}dict Yeo-
man attach fuit p^{er} h^{oc} Domini Regis nunc
de Privileg^{io} Cur^{ie} hic eman^{at} ad respond^{um} E. F.
Gen^{er}al^{is} un^{de} Cleric^{us} Georgii Cooke, Mil^{itis} Ca-
pital^{is} Prothon^{otarii} Domini Regis de Banco
[juxta libertat^{em} & privileg^{ium} ejusdem Curie
pro hujusmodi Clericis & aliis Ministris de
eodem Banco a tempore quo non extat
memoria usitat^{us} & approbat^{us} in eadem] de
placito Transgres^{us}. super Casum Et unde
idem E. F. in propria persona sua queri-
tur quare cum, &c.

Pleg^{us} de Pros^{us} } Johannes Doe.
Ricardus Roe.

Declaration in Trespass.

Pro januis
fract^{is} & pro-
strat^{is} & lig-
nis asportatis.

Verba^{rum} N. C. D. nuper de S. in Com^o p^{re}dict
Yeoman attach fuit ad respondend^{um} A. B. de
pl^{ur}ito quare vi & armis Clausum ipsius A.
apud S. fregit Et herbam suam ad valenc^{iam}
quadraginta solid^{os} ibidem nup^{er} crescent^{em} pedib^{us}
ambulando conculcavit & contumpsit ac blada
& al^{ia} herbam sua ad valenc^{iam} centum solidorum
ibidem nup^{er} crescent^{em} cum quibusdam averiis
depass^{us}

depass' fuit conculcavit & consumpsit nec non Com. Pleas.
 januas & repagula sua ibidem nup erect fregit & pstravit & lignum de januis & repagulis illis pbeniend ad valenc' quinquagint' solidorum cepit & asportavit & alia enormia ei intulit ad grave dampnum ipsius A. Et contra pacem Dom' Regis nunc, &c. Et unde id A. p J. S. Actozum suum queritur qd pd C. prim' die Augusti Anno Regni Domini Regis nunc primo vi & armis, &c. Clausum videt ipsius A. apud S. fregit & herbam suam ad valenciam, &c. ibidem nuper crescent pedibus ambulando conculcavit & consumpsit ac blada videt triticum siliginem hordeum pisas fabas & avenas & al herbam sua ad valenc', &c. ibidem nup crescent cum quibusda averiis videt equis vobus vaccis porcis viculis & videntibus depass' fuit conculcavit & consumpsit nec non januas videt duas januas & repagula videt viginti repagula sua ibidem nup erect fregit & pstravit & lignum videt unam caretat ligni de januis & repagulis illis pbeniend ad valenc', &c. cepit & asportavit transgres. pdictam quoad conculcationem & consumpcon herbe pd pedib' ambuland' & depass' conculccon & consumpcon bladozum & al herbe pdictozum cum averiis pdict' a pd' primo die Aug. Anno primo supradicto usq' sextum decimum diem Decembris tunc ppor' sequend diversis diebus & vicibus continuando Et alia enormia, &c. ad grave dampnum, &c. Et contra pacem, &c. unde dic' quod deteriorat est & dampnum habet ad valenciam deced libzarum & inde poue lectam, &c.

See more in the Second Part of *Instruct.*
Cler. Tit. Trespass.



Narr' in Trober.

Trespas and Assault.

As before, usque—— de p̄lito quare
 vi & armis in ipsum E. apud G. insult' fecit
 & ipsum verberabit vulnerabit & maletractabit
 ita quod de vita ejus desperabat' Et alia enor-
 mia et intulit ad grave dampnū ipsius E. &
 contra pacem Domini Regis nunc, &c. Et
 unde idem E. p̄ J. S. Attozid suū queritur
 qđ p̄dict' A. primo die Decembz Anno Reg'
 dicti Domini Regis nunc primo vi & armū
 videt gladiis baculis & cultellis in ipsum E.
 apud G. insult' fecit & ipsum verberabit vul-
 nerabit & maletractabit ita quod de vita ejus
 desperabatur Et alia enormia, &c. Ad grave
 dampnū, &c. & contra pacem, &c. unde dic'
 quod deteriorat' est & dampnū habet ad valenc'
 50 l. Et inde p̄duc' lectam, &c.

Trover.

It. A. B. nuper de C. in Comū p̄dict'
 Yeoman attach' fuit ad respondendū D. E.
 de p̄lito transgres. super casum, &c. Et unde
 idem D. p̄ J. S. Attozid suū queritur quare
 cum p̄d' D. decimo quinto die Junii anno reg'
 Domi Reg' nunc primo apud L. in Comū p̄d'
 possessionat' fuisset de bonis & catallis se-
 quen', viz. [here insert the Goods you
 bring the Action for] ad valenc' centum
 libz' ut de bonis & catallis suis p̄pziis——
 Et sic inde possessionat' existendū idem D. bona
 & cas

& catalla p̄dīc' extra manus & possessionē suas Com. Pleas.
casualiter p̄didit & amisit q̄ quidem bona & ca-
talla postea scilicet p̄dīc' decimo quinto die
Jūn anū p̄rīnū sup̄rā apud L. p̄ in Com̄ p̄
ad manus & possessionē p̄dīc' A. per inven-
tōm debener' p̄dict' tamen A. sciens bona
& catalla p̄dict' fore bona & catalla ipsius
D. ppz' & ad ipsum D. de jure spectare
& p̄tinere machinans tamen & fraudulent'
intendens ipsum D. de bonis & catallis
ill' callide & subdole decipere & defraudare
bona & catalla p̄dict' licet sepius requisit' fu-
isset eidem D. non deliberabit set bona & ca-
talla p̄dict' postea scilicet decimo quinto die
Jūn anū sup̄rā apud L. p̄ in Com̄ p̄ in usū
sūū ppz' convertit & disposuit ad dampnū ip-
sius D. 150 l. Et inde p̄duc' sextam, &c.

Narr' upon a Bill filed against an Attorney
in Debt.

Cooke.

Mich. duodecimo Georgii Regis.

Memorandum quod 23 die Octobris isto
eodem Termino veni hic in Cur' A. B. p
C. D. Attorn' suū & exhibuit Justic' Domini
Regis hic quandam Billam suam versus
F. F. Gen' un' Attorn' Cur' Domini Regis
de Banco p̄sēn hic in Curia in pp̄ia p̄sona
sua cūsus quidem Bille tenor sequitur in
hec verba] * Justic' Domini Regis de Banco
scit A. B. p C. D. Attorn' suū querit de

Note, It's said
the Memorandum ought to
be the First
Day of the
Term.

* The Bill
filed to be
ingrossed on
E. F. Parchment.

Com. Pleas. E. F. und Attoꝝ Cur Domini Regis de
 Banco als dice, (tc.) plen' hic in Cur in
 ppria psona sua de eo quod, (tc. ut in al
 in Debt, tc.) Et dampn' habet ad valenc'
 20 l. Et inde pet' remedium, tc.

The Bill.

Note, That upon a Bill filed, the Defendant is first called in Court, and then a Rule given to plead, or to be fore-judged. The Bill begins thus, at * Justic' Dom' Regis, (tc.) and you must write over it the Term, and file it in the Office.

Note, The Declaration must be entred on the Roll with a *Memorandum* of the First Day of the Term the Bill was filed, and with an Imparlance to the first Day of the next Term, if the Defendant pleads not the same Term the Bill was filed.

To the Prothonotary to sign the Bill after called, 1 s.

To the Secondary for a Rule thereon, 4 d.

Of Issues.

Non Assumpsit infra sex annos.

ET p̄dict C. p̄ E. Attoꝝ suū veid̄ & de ^{Non Assumpsit} send̄ vim & injur̄ quando, &c. Et dic̄ ^{infra sex an-} qđ p̄d A. accōn̄ suam p̄dict inde verlus eum ^{nos.} habere non debet quia dic̄ quod ipse non assumpsit sup̄ se ad aliquod tempus infra sex annos ante diem impetrac̄ h̄is originał ip̄sius A. modo & foꝝma put̄ p̄dict A. superius ver̄ eum queritur Et hoc parat̄ est verificare unde pet̄ Judic̄ si p̄dict A. accōn̄ suam p̄dict inde ver̄ eum habere debeat, &c.

Et p̄dict A. dicit qđ ipse p̄ aliqua p̄ p̄dict C. p̄allegat̄ ab accōne sua p̄dict habend̄ p̄cludi non debet quia dic̄ qđ p̄dict C. infra sex annos ante diem impetracion̄ h̄is originał ip̄sius A. scil̄c p̄dict die anno Regni dict̄ Domini Regis nunc p̄mo sup̄radict̄ apud S. p̄dict assumpsit super se modo & foꝝma put̄ ipse idem A. superius verlus eum queritur Et hoc pet̄ qđ inquiratur per patriam & p̄dict C. similiter Ideo p̄cept̄ est Alie quod Venire fac̄ hic in Octab̄ Pur̄ Beate Marie duodecim, &c. per quos, &c. & qui nec, &c. ad recogn̄, &c. quia tam, &c.

Com. Pleas.

That he paid the Money according to his Promise.

Soloit ad diem. Quando, &c. actionem non, &c. quia die quod post promissionem & assumptionem suas predictus in forma predicta facta & ante diem impetrat huius originalis predictus A. scilicet die Anno Regni dicti Domini Regis nunc primo supradicto ipse idem C. apud D. predictus bene & fideliter solvit prestat A. predictus 5 l. secundum promissionem & assumptionem suas predictus Et hoc, (&c.) unde, (&c.)

Et predictus, (&c.) precludi non debet quia die quod predictus C. non solvit eidem A. predictus 5 l. modo & forma prout dictus C. superius placitando allegavit Et hoc petit quod inquiratur per patriam Et predictus C. similiter Ideo, (&c. ut in al)

Defendant pleads Non-age at the Time of the Promise.

Deins Age.

Quando, &c. & die quod ipse tempore promissionem & assumptionem illam factam fuit infra etatem viginti & unum annorum Et hoc, (&c.) unde, (&c.)

Precludi non, Quia die quod predictus R. tempore promissionem & assumptionem illam factam fuit plene etatem viginti & unum annorum prout predictus C. superius allegavit Et hoc petit, (&c.)

If a Bond, you say, tempore confectiōⁿ Script Obligatoriū p̄dict; And to a Bill, tempore confectiōⁿ Bill ill fuit infra etat, (Et.)

Com. Pleas.

Non Assumpsit to the First, Second and Third Promises, and Payment to the rest.

Quando, &c. Et quoad primam secundam & tertiam promissionē in Parr p̄dict superius mēc̄ dic̄ quod ipse non assumpsit super se modo & forma prout p̄dict A. superius versus eum inde queritur Et de hoc pōd se sup̄ p̄ziam & p̄dict A. inde similiter Et quoad p̄d ultimam pmissionē in eadem Parr superius similiter mēc̄ (accōn non) quia dic̄ qđ ipse p̄dict C. post promiss̄ & assumpcōn ill in forma p̄d fact̄, (Et.) As before he paid the Money according to the Promise, &c.

Et p̄d A. dic̄ qđ ipse p̄ aliqua p̄ p̄d C. p̄ allegat ab actione sua p̄dict quoad p̄dict ultimam pmissionē in Parr ill superius mēc̄ habend̄ p̄cludi non debet quia dic̄ quod p̄dict C. non solvit eidem A. p̄dict 30 s. modo & forma put p̄dict C. superius placitando allegavit Et hoc per̄ quod inquiratur per Patriam & p̄dict C. s̄t̄t̄ Ideo quoad triand̄ tam erit ill̄ quam p̄dict al̄ erit int̄ partes p̄dict superius sunt̄ p̄cept̄ est Dic̄ quod ven̄ fac̄, (Et. ut in al̄.)

Non Inform' to one Promise, and Non Assumpsit to the other.

Et p̄dict C. per, (sc.) quando, &c. Et quoad primam p̄missionem p̄dict idem Attor̄n̄ dic̄ quod ipse non est inform̄ p̄ eundem C. magistrum suū, (sc. as in other Non inform̄ usque indefens̄) ob quod cons̄ est quod idem A. dampna sua occasion' non p̄for- macon' p̄im̄ p̄mission' p̄dict vers̄ p̄fat C. recuperare debeat, &c. Et quoad secundam p̄mission' p̄dict C. dic̄ quod p̄dict A. ac- con' suam p̄dict inde versus ipsum C. ha- bere non debet quia dic̄ quod ipse non as- sumpsit sup̄ se modo & forma put̄ p̄dict A. sup̄ius vers̄ eid̄ queritur Et de hoc pon' se super Patriam & p̄dict A. inde similiter & quia conveniens est & necesse quod unica fiat taxatio dampnorum p̄dict occasion' p̄miss̄ ideo cesset b̄ve de inquit de dampnis occ̄one p̄miss̄ quousque erit int̄ partes p̄dict sup̄ius junct̄ terminetur Ideo quoad triand̄ tam erit p̄dict inter partes p̄dict sup̄ius junct̄ quā ad inquirend̄ que dampna idem A. in hac parte sustinuit p̄cept̄ est tūc quod Venire fac̄ hic, &c. (as in other.)

*Unica taxatio
dampnorum.*

Plene

Plene Administravit.

The same as in the King's Bench, only instead of die exhibiçon' Will, you say, nec habuit die impetrationis brevis, &c. as follows.

Acçon' non quia dic' quod ipse se plene administravit omnia bona & catalla que fuer' p'dict' H. tempore mortis sue & quod ipse non habet nec die impetrat brevis original' ipsius W. p'dict' nec unquam postea habuit ulla bona seu catalla q' fuer' p'dict' H. tempore mortis sue in manibus suis administrand' Unde ipse C. [p'dict' separat' denar' sum' seu aliquem inde denar' or] de hunc p'dict' eidem W. solvere potuit Et hoc, (&c.) unde, (&c.)

That Administration was never granted to the Defendant.

Acçon' non quia dic' quod administratio bonorum & catallozum que fuer' p'dict' J. tempore mortis sue eidem Def. nunquam commissa fuit Et hoc, (&c.) unde, (&c.) ut in al.

Precludi non quia dic' qd administratio bonorum & catallozum que fuer' p'dict' J. tempore mortis sue per dict' Scriptum p'fat' Def. commiss' fuit put ipse supius versus eum narravit Et hoc p'f' quod inquirat p' Patriam & p'dict' Def. similiter Ideo p'cept' est Alio, (&c.) as in others.

Com. Pleas.

Comperuit ad diem pleaded to a Sheriff's Bond.

This being
an issuable
Plea, 'tis said
there is no
Need of a
Serjeant's
Hand to it.

Quando, &c. Et pet' auditum Scripti pō'
Et ei legitur, &c. pet' etiam auditum Condi-
cōn' ejusdem Scripti Et ei legitur in hec
verba, The Condition, (&c.) Quibus leas
& auditis idem C. dic' quod pōict A. (ac-
cōn' non) quia dicit quod ipse pōict C. com-
puit coram p̄fat Justic' dict Domini Re-
gis hic scilicet apud Westm' in pō' D̄cab
Sancti Hillarii ad respond' p̄fat A. B. de
pōict placito secundum formam & effectū
condicōn' p̄dict' cuius quidem C. compas-
rencia in Curia Regis hic adtunc recoz'dabat'
put p̄ Recoz'd inde in ead' Cur' hic residen' li-
quet manifeste Et hoc, (&c.) unde, (&c.)

Repl.

Precludi non quia dic' quod non habetur
aliquod tale Recoz'd comparenc' pō C. coram
p̄fat' Justic' dic' Domini Regis hic scilicet
apud Westmon' in pōict D̄cab Sancti
Hillarii in Curia Regis hic remanen' quat
ipse supius allegavit Et hoc parat' est ve-
rificare unde pet' Judic' & debm suū una-
cū dampnis suis occone detenōn' debiti
ill' sibi adjudicari, &c.

Et pōict C. ut prius dic' qđ habetur tale
Recoz'dum comparenc' pōict C. coram pōict
Justic' dict Domini Regis remanen' quat
ipse supius allegavit Et pet' quod Recoz'd
illud p̄ Justic' hic videatur & inspiciatur Et
quia Recoz'd illud parat' hic in Cur' modo non
habet dēm est p̄fat' C. quod Recoz'd ill' p̄
se

se scrutat' illud habeat hic [* a die Pasch Com. Pleas.
in tres Septimanas] idem dies dat' est parti-
bus p'dict' hic, &c.

* It ought to
be returna-

ble in a Return, unless by Privilege, and Rules to be given
before Judgment signed upon *deficit de Record*.

For *Nul tiel Record*, see the Fourth Part
of *Instructor Clericalis*.

Non damnificatus to a Counter-Bond.

Quando, &c. Et per' auditum Scripti p'd'
Et ei legitur, &c. per' etiam auditum con-
dicion' ejusdem Scripti Et ei legitur in hec
verba (the Condition of, &c.) Quibus lect'
& auditis idem C. dic' quod p'd' A. accon' sua
p'dict' inde versus eum habere non debet quia
dic' quod p'd' A. post conseccon' Scripti p'dict'
& ante diem impetrac' brevis Original' p'dict'
A. non damnificat' fuit pro aut concern' pre-
dict' Script' Oblig' in condicon' p'dict' supe-
rius specificat' in quo p'dict' A. simul cum eod'
C. conjunct' & divisim tenebantur p'fat' S. T.
& hoc, (&c.) unde, (&c.)

(Quer' p'cludi non) quia dic' qd' p'dict' C.
sup' p'dict' decimum diem p'dict' in condicione
p'dict' sup'ius specificat' non solvit p'fat' S. T.
p'dict' 50 l. in condicione ill' similiter specifi-
cat' quas eidem S. sup' eundem diem solvisse
debuisset p' quod p'dict' Script' Obl' p' p'd'
A. B. & C. D. p'fat' S. T. fact' & sigillat' pro
solucone p'dict' 50 l. forisfact' fuit sup' quo
idem

Com. Pleas. idem A. p̄ ebitatione sect̄ in lege & periculosum & incumbant q̄ in & sup̄ eundem A. & statum suū ratione non solutionis p̄dict̄ 50 l. secund' formam & effectum conditionis p̄dict̄ incidisse potuissent easdem 50 l. postea scilicet 20 die Junii anno Regni dict̄ Domini Regis nunc primo apud L. p̄dict̄ p̄fat̄ S. solvit in plenam satisfactionem p̄dict̄ Scripti Obl̄ 100 l. in p̄dict̄ Obl̄ superius specificat̄ Et sic idem A. dicit quod ipse damnificat' fuit ratione p̄dict̄ Scripti Obligatorii 100 l. contra formam & effectum conditionis p̄dict̄ superius spec̄ Et hoc parat' est verificare unde p̄t̄ Judic' & debitum suū p̄dict̄ unacum dampnis suis occasione detentionis debiti illi sibi adjudicari, &c.

Rejoinder.

Et p̄dict̄ C. dicit quod p̄dict̄ A. p̄dict̄ 20 die Junii anno primo sup̄radict̄ non solvit p̄fat̄ S. T. p̄d̄ 50 l. modo & forma put̄ p̄dict̄ A. superius allegavit Et de hoc pon' se sup̄ patriam Et p̄dict̄ A. similiter Ideo p̄cept' est Wic', (&c.) ut in al̄.

Non detinet.

Quando, &c. Et dic' quod ipse non detinet p̄fat̄ A. B. p̄dict̄ 30 l. nec aliquem denar' inde in forma qua idem A. superius vers' eum narravit Et de hoc pon' se sup̄ P̄riam, (&c.)

Nil

Nil debet nec detinet.

Et p̄dict J. S. p̄ A. B. Attorn̄ suū ven̄
 & defend̄ vim & injur̄ quando, &c. Et dic̄
 quod ipse non debet p̄fat̄ R. R. p̄dict 10 l.
 nec aliqnd̄ denar̄ inde in forma qua idem
 R. R. sup̄ius vers̄ eum narrabit nec detinet
 p̄fat̄ R. R. p̄dict equum in forma qua idem
 R. sup̄ius vers̄ eū narrabit Et de hoc pōd̄
 se sup̄ Patriam, (&c.)

Non dimisit to Debt for Rent:

Quando, &c. accōn̄ non, (&c.) quia di-
 cit quod idem A. non dimisit eidem D. tene-
 menta p̄dict cum p̄tin̄ put̄ p̄dict A. superius
 vers̄ eum narrabit Et de hoc pōd̄ se super
 Patriam, (&c.)

Conditions perform'd.

See before in the King's Bench: And
 see the Fourth Part of *Instructor Cle-
 ricalis*.

Tender of the Money to a Bond.

Quibus lectis & auditis idem A. dic̄ quod
 p̄dict B. (accōn̄ non) quia dic̄ qđ parat̄
 fuit

Com. Pleas. fuit ad p̄fat' Festum Sancti Michaelis Archd
 ac adtunc se obtulit ad solvend' p̄fat' B. 20 l.
 quas ei ad p̄dict' Festum solvillē debuit
 secundum formam & effectū condicōn' ill'
 videlicet apud L. p̄d' quodq; nec p̄d' B. nec
 aliquis al' p̄ eodem B. adtunc & ibidem
 parat' fuer' ad recipiend' de eodem A. p̄-
 dict' 20 l. Et ulterius idem A. dic' quod
 ipse semp' a p̄dict' Festo S̄ci Michaelis
 Archi hucusq; parat' fuit & adhuc existit ad
 solvend' p̄fat' B. p̄dict' 20 l. & quod ill' idem
 A. hic in Cur' p̄fert' p̄fat' B. parat' ad sol-
 vend' Et hoc, (et.) Unde, (et.)

This Plea above is to be pleaded be-
 fore Imparlance.

Repl. Quod non obtulit, et. Et Def. (ut
 prius) dic' quod obtulit, and Issue.

Solvit ad diem to a Penal Bill.

Actōn' non, quia dic' quod ipse solvit p̄se-
 tat' A. sup' p̄dict' 20 diem Marti p̄dict' 20 l.
 quas ei sup' eodem die solvillē debuit secund'
 formam & effectū Bille p̄dict' videlicet apud
 G. p̄dict' Et hoc, (et.) Unde, (et.)

Repl. Quod non solvit put' p̄d' Def. supis
 us allegavit Et hoc per' quod inquiratur, et.

Vide

Vide antea in the King's Bench.

Per Minas.

Per Dures.

Ne unques Executor.

Ne unques Administr'.

Ne unques Receptor'.

Son Assault de mesne.

Riens per Descent.

The same as in the King's Bench, only instead of die exhibitionis Wille, you say, die impetrationis Brevis, &c.

Commitment to the Fleet after Judgment.

Et p'dict Def. in Dia, &c. postea scilicet 16 die Nov' anno Regni dict Domini Regis nunc primo ven' hic in Cur' p'dict (Def.) in ppria p'sona sua Et sup hoc idem Def. committitur Prisione dict Domini Regis de le Fleet occasione premis' ibidem moratur' quousq, &c.

See after.

Al

Com. Pleas.



Al' Commitment al' Fleet in exoneration'
Manucaptor, &c.

Postea scite (tali die) tunc pr' sequen-
ven hic in Curia p'dict W. in ppria pson
sua Et tam pro indemnitate sua propria
quam Manuaptozum suoz pet quod ipse p
Cur hic committatur Prison Dom Regis
de le Fleet occasione Iudicii p'dict ibidem
moratur quousq, &c. Et quod idem Manu-
capt sui de Manuapcione sua p'dict exone-
rentur, &c. sup quo idem W. p'sens hic in
Cur ad petitionem p'dict Quer' committitur
Prisone p'dict in Execut p debito & dampn
p'dict in forma p'dict recuperat ibidem mo-
ratur quousq, &c. Et Manuaptoz' p'dict
videlicet A. B. & C. D. de Manuapcione &
Recognitione suis p'dict in hac parte fact' p
Cur hic plene exonerantur, &c.

Demurrers.

Note, That the Matters of Demurrers
are much the same here, as in the
Kings Bench: See after Tit. *Demur-*
rer amongst the Special Notes.

Postea's.

And as to *Postea's* upon Records after
Verdict, you have your Record returned
by the Clerk of the *Postea's*, and from
thence carry it to the Prothonotary to tax
Costs, who gives the *Postea* to the Clerk
of the Judgments; and he takes Care of
continuing the same on the Roll, &c.

See

See in the King's Bench concerning *Com. Pleas.*
reversing Judgments by Error.

If the Errors be allowed, the Judgment *Errors.*
is made void, and the Defendant may
have Restitution.

If the Error be not allowed, then is
the former Judgment affirmed.

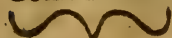
But observe, That notwithstanding the
Reversal of a Judgment, the Plaintiff's
Cause of Action is not thereby taken
away; but he may bring a new Action
against the Defendant for the same Cause,
if he will.

Non Pros'.

Entry of a *Non pros'* after Appearance by the
Defendant for Want of a Declaration.

ff. **A.** B. qui tulit h're Domini Regis
nunc vers' C. D. nup de, (sc.)
de placito Transgres' sup Casum non est p-
secut' breve suu' p'dict' Ideo ipse & pleg' sui
de p's sunt in mia' Quer nomina pleg', &c.
Et qd p'd C. eat inde sine die cons' est etia'
qd p'd Def. recuperet vers' p'fat Quer dampna
sua occone p'mis. ad 40 s. eidem Def. p dis-
creco'd Justic hic ad requisico'd suam p mis'
& custag' suis in ea parte sustent' juxta forma'
Statut, &c. p Cur hic adjudicat', &c.

Upon this drawn up on Paper, Costs are
signed by the Prothonotary, as in other Judg-
ments. See before in the King's Bench.



Of Suing to the Outlawry.

*Vide Abridg.
Stat. Tit. Ju-
dicial Pro-
ceedings.*

IF you intend to sue any Person to the Outlawry, (who is not easily to be taken, and hath not sufficient Estate in the County, whereby to be summoned, &c.) as you may in Trespass, Trespass and Assault, Account, Case, Covenant, Debt, Detinue and Replevin, you must make out a *Præcipe* in Debt, or a *Pone* in Case, Trespass, Assault, Battery, &c. as is before directed, with the Additions of the Defendant.

*Stat. 1 H. 5.
cap. 5.*

And this must be carried to the Curfitor of the County where you lay your Action, for an Original.

And note, That the Outlawry (unless laid in *London*, as most are) will scarce be perfected under Three Terms; because there must be 15 Days or more between the *Teste* and Return of each Writ of *Capias*, *Alias* and *Pluries*; and the Return of the First Writ is the *Teste* of the Second, and so in Order: Also there must be Five County-Days betwixt the *Teste* and Return of the *Exigent*, and on the Fifth County-Day, Defendant not appearing is outlawed.

But in *London* you may sue to the Outlawry Three Times in the Year, because their Hustings are oftner than their County-Days; and this is the Reason that most lay their Actions in *London*, in suing to the Outlawry.

Also

Also in a Vacation you may take the Com. Pleas.
 Benefit of the precedent Term for your Benefit.
 Original, and so you may the Term fol-
 lowing, provided you bespeak it of the
 Cursitor within seven Days after the
 Term begun, otherwise you will lose
 that Advantage.

Having gotten your Original you may
 return it of Course thus :

Pleg' de p^{re} } Iohes Doe.
 } Ricus Roe.

You may
 have four
 Names
 in one Writ.

* Note, If in Case or } Infranoiat A. ni-
 Trespass, you say, } chil het in Wal-
 p quod Attach po- } tia nra p quod
 test. } * sum potest.

Respond
 T. A. Mir.
 &
 W. H. Mir.
 Wic.

Then you carry your Original thus re-
 turned to the Filacer of the County, who
 thereupon will make you out *Capias*,
Alias and *Pluries* all together, if your O-
 riginal will bear it, which you must pay
 him for, and then get them sealed.

H h

After

Com. Pleas.

After this you may return your *Capias*, *Alias* and *Pluries* of Course severally, after this Manner:

* Naming the
Defendants
in the Writ.

Infrascript * N. non est
Invent in Ballia nra.
Respons.

T. A. Mif.

&
W. B. Mif.
Vic.

Having thus returned all your Writs, you may either carry the *Capias* and *Alias* to the Filacer, or keep them by you: But you must next make out a Warrant of Attorney for the *Pluries* upon a Bit of Parchment after this Manner, for the Plaintiff.

Mich 4 Georgii Regis.

London N. C. D. poim loco suo T. P.
Attorn suum Hlus A. B. nup
de (sc.) Gen de plito Tals
gr (or Debt, as the Case is.)

Power.

Next,

Next, you must carry this Warrant of *Com. Pleas.* Attorney to the Clerk of the Warrants to file it, and then he will stamp your *Pluries*.

After you have thus done, you must carry your *Pluries* to the Exigenter of the County where the Action is laid, who will thereupon make you out an Exigent and Proclamation, which you must get sealed; and (if in *London*) then you must carry the Exigent to one of the *Compters*, and leave it there to be perfected; and your Proclamation you must send down to the Sheriff of the County, of which the Defendant is named, to be executed.

At the Return of the Proclamation, you must file it with the *Custos Brevium*.

And having got the Return of your Exigent, you may carry it to the Clerk of the Outlawries, and he will make you out a *Capias Utlagat* upon it either general or special, the one is against the Body only, the other is against the Body, Goods and Lands; upon which you proceed, &c.

Note, That if it happen that there be not five County-days between the *Tiste* and Return of the Exigent, you must be forced to procure another Writ called an *Allocatur*, from the Exigenter, to bring in the five County-days; and so it must be in *London*, if it wants a Hustling.

Com. Pleas.

But *note*, That you may take out your Procefs in order, and endeavour to take the Defendant upon any of them.

The two chief Terms to commence Suits to the Outlawry, especially for the County, are *Easter* and *Michaelmas*.

If you begin in *Easter*-Term you may procure your *Cap'* and *Alias Cap'* returnable in *Trinity*-Term; and in *Trinity*-Term sue forth your *Pluries*, Exigent and Proclamation.

In *Michaelmas* Term, you may sue forth the Original *Capias* and *Alias Capias*, returnable the same Term; and a *Pluries Capias* returnable in *Hillary* then next following; and in the same Term procure your Exigent and Proclamation.

But in *London* you may begin in *Trinity* Term, and the Party may be outlawed in *Hillary* following; the Hustings being kept every Fortnight, and the County-Court only every Month.

Of superseding the Exigent, and reversing the Outlawry:

IT is ordered, That no Outlawry shall be reversed after the Death of the Plaintiff, unless the Defendant appear and put in special Bail, [if the Action so requires] to the Executor or Administrator, or to the Husband and Wife, where she whilst a Feme sole, sued the Defendant to an Out-

Per Reg' Cur'
Trin. 2. Ja.
2.

Outlawry ; provided the Plaintiff's Attorney to the Writ of Exigent do, within fourteen Days after Notice to him given of the Defendant's Intention to reverse the Outlawry, deliver the Names of the Executor or Administrator to the proper Prothonotary.

That on every Writ of Exigent which shall be sued forth, if a Superfedeas be not put in thereunto, at or before the Day of Appearance thereof, that no Superfedeas shall by any Sheriff be allowed to any such Writ, until the Defendant shall have paid the Plaintiff, or left with one of the Prothonotaries, the full Costs of Suit.

That the Defendant shall before Reversal of any Outlawry, or any Superfedeas made thereunto, put in Bail, if the Sum or Damages in the Original be 10 l. or above, and pay full Cost of Suit to the Exigent as aforesaid ; and if the Plaintiff hath extended Goods, &c. of the Person outlaw'd, further Costs shall be taxed by the Prothonotary, and paid to the Plaintiff as aforesaid, before any Certificate of Reversal shall be made by the Clerk of the Outlawries. *Vide the Special Notes, Title Outlawry.*

Several Ways of passing a Fine.

IF your Fine be to be taken in the Country, you must first draw up Instructions for the Cursitor to make a De-

Com. Pleas. *dimus Potestatem*, and give him the Commissioners Names at the Bottom, which may be after this Manner:

Lincoln ff. P^r A. B. Gen & E. Ur' es
 jus quod iuste. &c. ten' C.
 D. Con, &c. de uno Mesuag
 gio uno Gardino cum p^{ri}o in
 ff. Et nisi, &c.

De' p^ro direa' } I. S. Pil.
 { T. B.
 { R. C. } Gen
 { H. P. &
 { G. M. }

You must carry this to the Cursitor of the County, and bespeak a *Dedimus*; and you may at the same Time bespeak and have a Writ of *Covenant*; but that is usually let alone till the *Dedimus* is returned.

But if it is to be a Fine of the preceding Term, your best way is to have a Writ of *Covenant* at the same Time, for if the *Dedimus* is not taken and returned in Time, you will be under the Necessity and Expence of Petitioning the Master of the Rolls for a Writ of *Covenant* returnable the preceding Term.

You must send down your *Dedimus* to your Client, with an Endorsement thereon in this Manner, *Executio istius Commissionis patet in quadam Schedul' huius Commissionis annex'*, and the Commissioners sub-

scribe it, you must also write the *Præcipe* or Com. Pleas. ver upon Parchment, and under that the Concord as the Nature of the Thing requires with a Caption, and the Cognizor or Cognizors, must subscribe the Concord and the Commissioners the Caption.

When the *Dedimus* is returned, then Affidavit by a Commissioner is made before a Judge, that he knew the Parties, that they were at Age, and of good Understanding, and if a married Woman Cognisor, that she was examined apart and consented; then the Judge's Clerk writes on the Caption, Upon the Oath of A. B. one of the Commissioners of the due Execution of this Fine, let it pass: But if any Interlineations be made in the Fine, or Caption, let the Judge's Clerk take Notice thereof, otherwise it will not pass the Offices.

This *Allocatur* is by a Judge of the Common Pleas; he is paid 4 s. It is usual to bespeak the Writ of Covenant, (for which you pay 7 s. 6 d.) of the Cursitor, (by leaving the *Dedimus* and Caption with him) which Covenant you must carry to the Alienation-Office, to be compounded.

After you have compounded it, carry it back to the Cursitor and he will mark how much for the King's Fine.

Next, you must carry your Writ of Covenant to be returned, at the Return-Office, in Prothonotary Borret's Office, for which you pay 1 s. 6 d. and if it be in London or Middlesex, you must carry him a Note of the Parcels, Buttalls, Signs and Tenants Names.

Com. Pleas.

Then next you must make up a Warrant of Attorney for it, upon a Piece of Parchment, after this Manner:

Mich I Georgii secundi Regis.

Lincoln II.

C. D. pō loco suo T. P. ad
ps' hze de Con Glus A. B.
Gen & C. Ur' ejus de ter-
ris & tenitis in F. (tc.)

Power.

Then you must carry the Warrant of Attorney and Covenant to the Clerk of the Warrants, who will file your Warrant, and sign your Writ of Covenant for 4 *d.*

Then you must annex your *Dedimus* and Caption to it, and carry it to the *Custos Brevium*, to indorse the Proclamations upon it, for which you pay 3 *s.* 8 *d.*

From thence you carry them as annexed, to the King's Silver-Office in the *Temple* to be entered; you pay 1 *s.* 8 *d.*

Till it was entred in this Office, it was not formerly accounted a Fine in Law, but now by a late Resolution it is deemed a Fine in Law from the Caption.

From the Silver-Office you must carry it, as annexed, to the Chirographer's Office

place in the *Temple*, for the Indentures to be made upon it; where it is left on Record, and the Indentures you must give or send to your Client. Thus it is perfected.

If your Caption is to be taken before the Chief Justice at his Chambers, as it well may, if the Parties be in Town.

Then you must write a *Præcipe* and Concord on Parchment, and another on Paper; to which the Parties must subscribe their Names. Then they must go with you to the Chief Justice, and acknowledge it before him; and you must leave the Paper *Præcipe* with the Judge's Clerk.

Next, you may bespeak your Writ of *Covenant* of the Cursitor, and proceed through the Alienation-Office, Return-Office, Warrant of Attorney Office, *Custos Brevium*, King's Silver, and Chirographer's Office, as before; annexing the Caption to the *Covenant*, before you carry them to the *Custos Brevium*.

If your Acknowledgment be before another Judge at the Assizes, as it may, You leave the *Præcipe* and Concord with the Judge's Clerk, and when the Judge comes to Town you must bespeak of the Cursitor of the County a general *Dedimus*, to be directed to that Judge, and his Clerk will return the Substance of the Concord on the Back of the *Dedimus*.

Then

Com. Pleas.

Then you must get a Writ of Covenant, and compound it as before, and pass it through all the Offices, as before, with the *Dedimus* annexed, before you go to the *Custos Brevium*, &c.

A Fine from one to one of a Messuage,
&c.

Precipe.

Soms^r n. Precipe A. B. quod fuisse &c.
ten^d C. D. Con^d, &c. de uno Mesuagio
dupbus gardinis viginti acr^r terre decem
acr^r pzati & decem acr^r pastur cum p^rid^m
in F. & n^ris, &c.

Concord.

Et est Concordia talis scilicet quod p^ro
A. Recogn^d p^rdict^m ten^ta cum p^rid^m esse sus
ipsius C. ut ill^e que idem C. habet de do
no p^rdict^m A. Et ill^e remiss^a & quiet^a clam^d
de se & heredibus suis p^rdict^m C. & heredi
bus suis impp^rid^m Et preterea idem A.
concessit p^r se & heredibus suis quod ip^si
Mar^r p^rdict^m C. & heredibus suis p^res
dict^m ten^ta cum p^rid^m contra ipsum A. &
hered^e suos impp^rid^m Et p^r hac, &c.

Capt^r & cogn^d . . . die . . .
Anno regni Dⁿi Georgii
secundⁱ nunc Regis Reg^r
Brit^r, &c. primo annoq^{ue}
Dⁿi, &c. coram —

By

By one to two of a Messuage, Lands and
Common.

Soms' ff. Pz' A. B. quod iuste, &c. ten
C. D. & E. F. Con, &c. de tribus me-
suagiis quinque gardinis centum acr ter-
re ducent acr bosci & coia pastur pro
otodis averiis cum pertind in G. & H.
Et nisi, &c.

Et est Concordia talis scit qd pd' A Res-
cognid pdict tenta & coiam cum priid esse
ius ipsius C. ut ill que iidem C. & E.
habent de dono pdict A. Et ill rema' &
quiet claud de se & heredibus suis pdict
C. & E. & heres ipsius C. impund Et ptes
rea idem A. concessit p se & heredibus
suis quod ipsi Warr' pdict C. & E. & heres
ipsius C. pdict' tenta & coiam cum pertind
contra ipsum A. & heres suos impund
Et pro hac, &c.

Capt & cognid . . . die . . .
Anno Regni Dni Georgii
secund nunc Regis Magn'
Brit' primo annoqz Dni
1727. coram——

Note, Though there be divers Cogni-
zees, yet the Right shall be limited to
one of them only, and the Estate limit-
red

Com. Pleas. ted to his Heirs only, whose Right it is acknowledged to be. But if the Cognizees be joint Purchasers, it is said hered' suis instead of the Heirs of one of them.

If a Fine be levied by two, and hereditibus without the Word suis, 'tis said this will be void for Uncertainty in a Fine, as in a Deed.

From Husband and Wife, of Husband's Lands.

Some' n. p. A. B. & C. Wr' ejus quod iuste, &c. ten' D. E. Conb', &c. de, &c. as before.

* If you know not whether they are the Lands of the Husband or Wife, then say hereditibus suis.

Et est Concordia His scite quod p'dict' A. & C. recogn' tanta p'dict' cum p'tin' esse ius ipsius D. ut ill' que idem D. her' de dono p'dict' A. & C. & ill' remisit & quiet' claud' de ipsis A. & C. & heres * ipsius A. p'fat' D. & heres suis imp'pund' Et p'terea iidem A. & C. concesser' p' se & heres ipsius A. quod ipsi Warr' p'dict' D. & heres suis p'dict' tanta cum p'tin' contra ipsos A. & C. & heres ipsius A. imp'pund' Et p' hac, &c.

From

From the Husband and Wife, of the
Wife's Lands.

Wiltz n. Pz' A. B. & C. Wt' ejus qđ
juste, &c. ten D. E. Con, &c. de (&c.
as before naming the Parcels.)

Et est Concordia illis scilicet quod pōia'
A. & C. recognō pōict tenementa cum p-
tinē esse ius ipsius D. ut illi que idem
D. habet de dono pōict A. & C. Et illi
remiser' & quiet' clamē de ipsis A. & C.
& hered' ipsius C. p̄fat D. & hered' suis im-
ppum' Et p̄terea iidem A. & C. concess. p
se & hered' ipsius C. quod ipsi Warr' pō'
D. & hered' suis pōia' tenementa cum p-
tinē contra pōict A. & C. & hered' ipsius
C. imp̄pūm Et p̄ hac, &c.

Note, Many, to make the Warranties sure
in Case of a Man and Wife, do first
make a Warranty from the Husband, as
before, and then add a Warranty to
bar the Wife's Heirs thus: (*viz.*).

Et ulterius iidem A. & C. concesser' pro
se & hered' ipsius C. quod ipsi Warr' tenta
pōia' cum p̄tinē p̄fat D. & heredibus suis
contra ipsos A. & C. & hered' ipsius C. imp-
pum Et p̄ hac, &c.

When a Fine is from divers, the Fee
is supposed to be in one of them only,
if it so be, and the Release and War-
ranty from him.

But

Com. Pleas. But generally where there are divers
 Cognizors, the Release is from them and
 their Heirs: As thus,

(Viz.) From three to two.

Warranty.

Et est Concordia His scilicet quod predicti
 A. B. & C. Recogni tenita predicta cum pertinentiis
 esse suis ipsius D. ut illi que iidem D. & E.
 habent de dono predicti A. B. & C. Et illi
 remisit & quieti clam de ipsis A. B. & C.
 & heredibus suis presentat D. & E. & heredibus ipsius
 D. imppetum Et propterea iidem A. B. & C.
 concessit pro se & heredibus ipsius A. quod ipse
 si Warr tenementa predicta cum pertinentiis presentat
 D. & E. & heredibus ipsius D. contra ipsos A.
 B. & C. & heredibus ipsius A. imppetum Et
 pro hac, &c.

If the Warranty be general, you may
 say, contra omnes homines imppetum.

Also generally in such Cases of divers
 Cognizors, they warrant apart, as thus:

Warranty a-
 part.

Et propterea idem A. concessit pro se & heredibus
 suis quod ipsi Warr tenementa predicta cum
 pertinentiis presentat D. & E. & heredibus ipsius D. contra
 predictum A. & heredibus suos imppetum Et ulterius
 idem B. concessit pro se & heredibus suis
 quod ipsi Warr tenementa predicta, cum
 pertinentiis presentat D. & E. & heredibus ipsius D. con-
 tra predictum B. & heredibus suos imppetum Et es-
 tiam idem C. concessit pro se & heredibus
 suis quod ipsi Warr tenementa predicta cum
 pertinentiis

ptid pſat D. & E. & heres ipſius D. con. Com. Pleas.
tra pdict C. & heres ſuos imppetnum Et.
p hac, &c.

And ſo of the like by theſe Words, Et
pterea, Et inſup, Et etiam, Et ulterius,
Et denique, &c. and the like.

And Note, That Lands bought of di-
vers Perſons, by ſeveral Purchaſers, may Several Pur-
paſs very well in one Fine, and then the chaſers.
Writ of Covenant muſt be brought by
all the Vendees againſt the Vendors. and
every Vendor muſt warrant againſt him-
ſelf and his Heirs only.

And Note, farther, That one Concord
may be of Lands in ſeveral Counties,
and the Fine p licentia Concord of all
extracted intirely ; but there muſt be ſe-
veral Writs of Covenant returnable all at
one Day.

And ſo if the Lands lie in a Pariſh
that extends into ſeveral Counties, you
may ſue out a Writ p from the Curſitor
of which of the Counties you pleaſe,
but muſt ſet forth what Lands lie in
this County, and what in the other.

The Clerks of the Chirographers Of-
fice will demand for an Indenture with
ſingle Warranty, 3 s.

Every other Warranty 6 d.

For a poſt Terminum 6 d.

For a Warranty (though not expreſſed)
if there be ſo many Cognizors, as would
make one, two, or three more, 6 d.
per Warranty.

And

Com. Pleas.

And some of them insist upon 6 d. for Expedition of your Indentures; as if usually allowed.

An Admission of an Infant to sue by his next Friend.

It. Concessum est p Cur' hic quod A. B. Gen & C. D. Gen conjunctim & divisim sequentur p E. F. qui infra etat existit ut p'or' Amici ipsius E. Plus G. H. de p'ito debi.

This Admission may be to one Friend, and ought to be entred on the same Roll before the Declaration.

The Declaration runs thus :

It. G. H. nup de, &c. ad respond E. E. de p'ito (&c.) Et unde idem E. F. p A. B. Gen (qui admissus est p Cur' Regis hic ad psequend p eodem E. F. qui infra etat existit (ut p'or' amicus ejusdem E. F.) dic quod cum, (&c.)

Appearance
Infant.

As an Infant sues by his next Friend, so he must appear by his Guardian or Keeper; and if such Guardian cannot be admitted in Court, or before a Judge at the Assize, then you must bespeak a *De-dimus potestatem* of the Cursitor of the County for Commissioners to admit him *Custodes* to

to answer the Plaintiff de plito, &c. (pro: Com. Pleas. ut in narr): the like if he plead p pro: amicum, and he be not otherwise admitted.

The Caption to be written on Parchment thus:

Virtute hris Dñi Regis huic Schedule annex' Nobis & quibuldam W. S. Mil T. W. R. W. (&c.) direct' 15 die Junii Anno Regni dicti Domi Regis primo nos quor' nomina subscriptibuntur admissim' R. S. & T. U. Gen Custos J. K. in brevi p'dict' nominat' infra etat' existend' ad psequend' & defend' loquelam que est coram Justic' dicti Domini Regis de Banco p breve dicti Domini Regis int' p'fat' J. K. & L. M. de plito Transgr' (or debi, &c.) ut dicitur secund' tenorem ejusdem brevis. In cuius rei Testimonium sigilla nostra appos' die & Anno supradictis.

L. M.
N. O.

The *Dedimus* must be returned thus on the Backside, Crecut istius Com' patet in quadam Schedul' huic brevi annex'.

L. M.
N. O.

These being returned back to you, must be carried to the Cursitor to make

Com. Pleas. a *Mittimus* and Transcript, which must
 next be entred on a Roll after this Man-
 ner.

Entry of *Mittimus* and Transcript of Ad-
 mission of a Guardian.

Dominus Rex Mand Justic suis de
 Banco hic breve suum de *Mittimus* ctm
 unacum tenore cujusdam b'is de *Dedimus*
 potestatem de custod' admittend' & retorn'
 ejusdem necnon custod' inde admis' in hec
 verba Georgius secund' Dei Gra' (&c. to the
 End of the *Mittimus* and Transcript, viz.
 to the End of the Caption L. M. N. O.)

Vide post. in the Special Notes, Tit.
Infant.

A Plea by Guardian. Et p'dict J. K.
 per L. M. (qui admissus est per Cur Reg
 is hic ad defend' p' eodem J. qui infra es-
 tat' existit & Guardian) (or Custod') ipse
 J. ven' & defend' vim & insur' quando, &c.
 Et dic' (&c.) (ut in ap.)

Of delivering Declarations to Prisoners.

R U L E S to be observed in the Court of *Common Pleas*, in the Proceedings upon Declarations delivered to Prisoners in Custody in County-Gaols.

Vide the Stat. 4 & 5 W. & M. antea.

First, **T**HAT no Copy of any Declaration shall be delivered to a Prisoner in Custody until after the Process upon which such Prisoner shall be taken or charged in Custody be returnable.

No Declaration to be delivered before the Return of the Process.

Secondly, That no Rule shall be given for the Defendant in Custody, to appear and plead to any Declaration against him, until an Affidavit be filed with the proper Secondary, of the Delivery of a Copy of such Declaration, and of the Time when, and the Person to whom the same Copy was delivered; and the Copy of the said Affidavit shall be produced to the Prothonotary before Judgment signed, together with a Certificate from the proper Officer, that no Appearance is entered with him.

No Rule given for Appearance till Affidavit of the Delivery of the Declaration is filed.

Thirdly, If a Copy of the Declaration be delivered before *Mensem Paschæ*, or *Crastinum Animarum*, and Affidavit thereof made and filed; and the Defendant doth not enter his Appearance with the proper Officer within ten Days after Easter or Michaelmas Term

'Narr' delivered before Mens' Pasch. or Crast. ani-mar'.

Com. Pleas. *respectively; Judgment may be entred against him, upon the Certificate as aforesaid, if Rules have been given; but if he doth not enter his Appearance as aforesaid, before the End of ten Days after the Term, he shall imparle until the next Term; unless the Action be in London or Middlesex, and the Defendant be in Prison within forty Miles of the City of London or Westminster; then though he doth not appear before the Expiration of ten Days after the End of the Term, he shall plead two Days before the Essoin Day of the next Term; and in Default thereof, Rules having been given, Judgment may be entred against him as aforesaid.*

Narr' delivered after
Mens' Pasch'
or Crast' animar',
or in Hil. or Trin.
Term.

Fourthly, *If a Copy of the Declaration be delivered on, or after Menssem Paschæ in Easter Term, or Crastinum Animarum in Michaelmas Term, or in Hillary or Trinity Term, and the Plaintiff thereupon shall give Rules to appear and plead, if the Defendant enter his Appearance two Days preceding the Essoin Day of the next Term, he shall imparle until the said next Term: But if he does not appear within that Time Judgment may be entred against him as aforesaid.*

Narr' delivered before
the Essoin Day of the
next Term.

Fifthly, *If the Writ be returnable in one Term, and a Copy of the Declaration be delivered before the Essoin Day of the next Term, the Plaintiff in such next Term may give Rules to appear and plead; and if the Defendant doth not enter his Appearance, and plead by that Time that the Rules are out, Judgment may be entred against him as aforesaid.*

Sixthly,

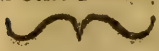
Sixthly, If the Declaration be not entred or Com. Pleas.
 left in the Office before the End of the next Term, If Narr' be
 after the Writ or Process (by which the Prisoner shall be taken or charged in Custody) be not entred
 returnable, and an Affidavit made and filed in the Of-
 in Manner aforesaid, before the End of twenty fice.
 Days after such Term (Easter Term excepted,
 and within ten Days after Easter Term) the Prisoner dis-
 Prisoner shall be discharged upon the entring of charged.
 his Appearance with the proper Officer, by Writ
 of Supersedeas made by him, according to the
 ancient Practice of this Court.

Seventhly, If any Gaoler or Keeper of a Attachment
 Prison, having received a Copy of a Declarati- against Goal-
 on against any Prisoner in his Custody, shall er if he shall
 suppress the same, and not deliver it forthwith suppress the
 to such Prisoner, an Attachment shall be is- Declaration.
 sued against him.

Geo. Treby, | Jo. Powell,
 Edward Nevil, | Tho. Rokeby.

Before you deliver a Declaration a- * If on Bond
 gainst the Prisoner, you must * enter it you pay 1 s.
 with one of the Prothonotarys, other- in Case on
 wise your Proceedings will be irregular. 3 Narr's 4 s.

If the Defendant be a Prisoner in the
 Fleet, you enter your Declaration before
 you deliver it with the Clerk of the Pa-
 pers of the Fleet Prison, and you are not
 obliged to take out Process to charge him
 in Custody there, before you can regu-
 larly declare against him, as you must

Com. Pleas. do, if the Defendant is a Prisoner in
 Ludgate, Newgate, or any County Gaol.

The Affidavit of Service may be after
 this Manner.

R. G. maketh Oath, that he did on
 the 13^d. Day of *June* last, de-
 liver a true Copy of the Declaration here-
 unto annexed * unto the Defendant E.
 F. the said E. F. being then a Prisoner
 in the Prison of *Newgate*, and this De-
 ponent saith, that the said Defendant was
 arrested or charged in Custody at the
 Suit of the Plaintiff by Process of this
 Court returnable before the Delivery of
 the said Declaration.

* (Or) to
 the Turnkey
 or Gaoler of
 the Gaol
 Prison, of
 the County
 of—and the
 said Turnkey
 or Gaoler
 then owned
 him the said
 E. F. to be a
 Prisoner in
 the said Pri-
 son, and that
 he would de-
 liver the De-
 claration to
 him.

Jur' ——— die ——— Anno
 primo Georgii secundi Re-
 gis coram.

R. G.

This Affidavit and the Declaration
 thereto affixed, you carry to the Sec-
 ondary for a Rule to plead, for which you
 pay him 1 s. and 8 d. and he will keep
 your Narr', and the Affidavit annext.

If the Prisoner does not plead before
 the Rule is out, a Plea being demand-
 ed, you may take your Judgment, and
 if it is an Action on *the Case*, pro-
 ceed

ceed to execute your Writ of Enquiry, sign your final Judgment, and make out such Writ of Execution as shall be requisite; but if you charge the Prisoner in Execution, you are barr'd from suing forth any writ of Execution against his Lands or Goods, unless the Prisoner escape, be discharged by * Privilege of Parliament, or † Death, and then the Plaintiff his Executors, &c. may sue forth † new Execution against the Lands, Goods, &c. as if the Person deceased, &c. had never been taken in Execution.

Com. Pleas.

1 Fac. c. 1.

21 Fac. c.

24.

Ante 148.

Of Discharging Prisoners for want of Prosecution.

IF a Writ be returnable in *Easter* Term, and nothing is done in *Trinity* Term, upon the Prisoners getting a Certificate thereof from the Gaoler (that there is no Declaration delivered, or *Habeas Corpus* brought) and likewise getting signed *fiat Superseas* by a Judge, for which he is paid 4s. the Filacer of the County will on carrying him the *Fiat*, make a *Superseas*, and at the same Time enter an Appearance for the Prisoner, who will thereupon be discharged.

Prisoner discharged if the Defendant does not declare in two Terms.

Com. Pleas.

Termino
Pasch. 8
Geo. R.

Rules to be observed for discharging Prisoners. committed to the Fleet Prison, County and other Gaols, and for discharging Persons rendering themselves, or being rendered to the Fleet Prison, in Discharge of their Bail (by Virtue of Process of the Court) by Superseas for want of Prosecution.

If Plaintiff has declared against Prisoner, and does not proceed to Judgment in three Terms.

IT is ordered, That if any Plaintiff shall declare against any Defendant in Custody of the Warden of the Fleet or of any Sheriff, or other Officer, by Virtue of any Process of this Court, and shall not further proceed to Judgment within three Terms after such Declaration delivered, inclusive of the Term in which the Declaration shall be delivered, the Defendant having appeared.

Or after obtaining Judgment does not charge the Prisoner in Execution in two Terms, he may be discharged by Superseas.

Or if any Plaintiff having obtained Judgment in this Court in any Action, against any Defendant a Prisoner as aforesaid, and shall not charge such Defendant so remaining a Prisoner in Execution upon the Judgment so obtained, within two Terms next after such Judgment, so had and obtained including the Term, in which the said Judgment shall be signed, then such Defendant so remaining in Prison may be discharged out of Custody, where he shall be so detained by Superseas, to be allowed by

Notice being given to Plaintiff and Oath thereof.

one of the Justices of this Court, if Cause shall not be shewn by the Plaintiff, or his Attorney. Why such Plaintiff had not proceeded before that Time to Judgment, and Execution as aforesaid

said, upon Notice to either of them given by Com. Pleas. the Defendant's Attorney, or Agent, and Oath made of such Notice given.

And if any Defendant shall render himself, If Plaintiff or herself to be rendered to the Fleet Prison, in does not declare against Discharge of his or her Bail at the Suit of a Defendant any Plaintiff, where no further Proceedings by in two Terms Declaration, has been had against such Defen- after Render. dant so rendered before such Render, unless the Or having Plaintiff shall declare against such Defendant declared be- within two Terms after such Render. And fore Render where any Declaration hath been delivered a- ceed to Judg- gainst such Persons so rendring themselves. Or ment in 3 Judgment has been had against him, or her Terms after before such Render, unless the Plaintiff shall pro- Render. ceed to Judgment upon such Declaration deli- Or if Judg- vered, within three Terms after such Render ment has been had be- (the Defendant having appeared) and charge fore Render such Defendant in Execution within two Terms does not after such Judgment obtained; such Defendant charge De- may be discharged out of Custody by Superseas, fendant in Execution in to be allowed by one of the Justices of this Court, two Terms if Cause shall not be shewn to the contrary as after. afore said, by the Plaintiff or his Attorney, upon Prisoner Notice to either of them, given by the Defen- may be dis- dant's Attorney or Agent, and Oath made of charged as afore said. such Notice.

P. King.

R. Tracy.

Jo. Blencoe.

R. Dormer.

Note

Note, If you declare in the Court of *King's Bench*, against a Defendant Prisoner, and he afterwards removes himself to the Fleet, you may proceed on that Declaration, delivered but in order to charge him in Execution, he must be brought up by *Habeas Corpus*.

Vide the Stat. 1 *Annæ* cap. 6. & 5 *Annæ* cap. 9. concerning Prisoners escaping out of Custody, taken by a Judge's Warrant, and carried to the next County Gaol.

For which Purpose I have here briefly added, a Declaration in Case against the Sheriff, for suffering an escaped Prisoner to go at large, which seems to be well drawn.

*Narr' per Es-
cape vers' vic'
sur Escape
Warrant.*

The Declaration shews Process of Bill of *Middlesex*, and to what Purpose, The taking the Party thereon by the Sheriff of *Middlesex*. His being brought by *Habeas Corpus* before one of the Justices of the *Common Pleas*; his Commitment to the Fleet thereupon, (all set forth very precisely :) And then it was ordered, &c. as follows.

Dittoque



Dicoque J. L. sic in Prisona de le Fleet
 Prisonar' existen' ac ips' eodem B.
 hen' p'dict' causam Accōd' vers' eundem
 J. ipse idem B. secundum formam & effec-
 tum Statut' in huiusmodi Casu nuper edit' &
 probis' postea ac infra p'dict' Terminū S'ci
 M. scilicet 16 die Novemb' Ann' 3 supras-
 dict' affilabit & intrabit in p'dict' Cur' Do-
 mini Regis de Communi Banco hic cum
 propz' Officiar' in ea parte Part' suam in
 Accōne p'dict' vers' p'dict' J. L. Per quam
 quidem Part' idem B. implacitavit p'dict' J.
 de placito trans' super Casum pro non
 perforinat divers' promission' & assumpcion'
 ipsius J. ad solvend' p'dict' denar' per ip-
 sum eidem B. sic debet pro predict' Bonis
 Mercimoni' & Merchandiz' de eodem B.
 empt' habit' & recept' Ad dampnum ipsius
 B. 40l. Idemque B. postea scilicet eisdem
 die & Anno deliberavit vera Copia Part'
 ill' cuidam T. N. tunc Janitor' (Anglice
 Turnkey, or Porter) p'dict' Prison' de le
 Fleet videlicet apud L. p'dict' in Paroch'
 & Warda p'dict' super qua quidem Part' in
 Accōd' p'dict' fuit Process' fuit in eadem
 Cur' de B. hic quod Idem B. postea sci-
 licet eodem Termino S'ci Mich'is Anno
 3 supradict' recuperavit & obtinuit in ea-
 dem Accōne Judic' ejusdem Cur' de Communi
 Banco hic per quod quidam Judic' Cons'
 fuit per eandem Cur' hic quod idem B.
 recuperaret dampn' sua vers' p'fat' J. L. or-
 done non p'formacon' p'miss' & Als' p'dict'
 put

Com. Pleas. put p Record & Process' Judicii ill' in
 pōia' Cur de B. hic residen plenius apparet.

Diciturq J. L. post commissionē & ante-
 quam ipse aliquam solucōm sive satisfactōm
 eidem B. fec' scilicet 1 die J. Anno 3 suprac-
 dia' & pōia' pris' de le Fleet & extra Cus-
 tos tunc Guardian' Pris ill' sine licencē
 & cont' voluit' ipsius B. escapiabit & ad larg'
 quo voluit ibit & evasit videlicet apud presb
 Paroch Scti M. in pōict Com' Midd (ipso
 eodem B. de pōict 36 l. seu aliqua inde pars
 cell' adunc vel adhuc mie satisfact' existēd
 posteaque scilicet 31 die M. anno Regni
 Dom' Regis nunc quarto pōict J. L. sic es-
 capiat & ad larg' eund sine licent' pōict vir-
 tut' cujusdam Warr' sub manu & sigil' pō
 R. T. tunc & adhuc und Justic' dicti Dñi
 Regis de C. B. hic apud W. exist' fact' per
 ipsum de bo modo secundum form' Stat' in
 hūdi casu nuper edit' & provis' eidem B. ad
 requisit' suam ibidem concess' & omnibus
 Vic' Major' Balliis Constabular' Capital'
 Pleg' (Anglice Headboroughs) & Decen-
 nal' (Anglice Tythingmen) in ea parte di-
 rect' juxta form' Stat' predict' per quē-
 dam— tunc Constabular' infra pōict Com'
 B. existēd erequend' cui Warrant' ill'
 ibidem deliberat' fuisset erequend' debito mo-
 do fact' & recapē fuit, viz. apud A. in pres-
 dict' Com' B. predictoque J. L. sic recapē
 virtute Warr' ill' immediate scit' eisdem die
 & Anno ult' mēse debito modo secund' for-
 mam & effectum Stat' pōict conduct' & com-
 miss' fuit Cōt Gaole predicta' Com' B.
 apud A. pōia' tunc existēd sub Custos dñi
 H. A. tunc Vic' ejusdem Com' B. existēd
 ibm

ihm remansur iuxta formam Statuti predicti quod Com. Pleas.
 usque ipse predictus J. L. fecerit plenam solutionem
 sive satisfactionem eidem B. vel quousque Ju-
 dice in Actionem predictam reddat foris per ipsum eo-
 dem J. L. super quo predictus H. A. tunc Vice
 predictus Comes B. predictus 13 die M. Anno 4. su-
 pradietam existentem predictum J. L. in Custodiam suam
 adducit & ipsum cepit ac eundem J. in custodiam sua
 virtute Warrantum predictum ipsum fuit & detinuit
 Idemque H. A. Warrantum predictum in predictum Cur-
 iam Regiam de C. B. hic de hoc modo retor-
 navit in omnibus executis intrando & affiliando
 de Recordis ac idem Warrantum in eadem Curia hic
 de Recordis intrat & affiliat existit prout per Re-
 cordis inde in eadem Curia hic residentem plenis-
 us apparet deoque J. L. in Custodiam predictam H. A.
 in forma predicta detentus existentem idem H. postea
 scilicet 1 die J. Anno 4. supradictam adducit Vice
 predictus C. B. existentem predictum J. L. e prisonem ille
 ultimum & extra custodiam suam ad largum
 quo voluit libere & voluntarie evadere & ite-
 rim videlicet apud Parochiam Sancti Martini in C.
 in predicta Curia Midd (eodem B. de de hoc suo
 predictum vel de aliqua inde parcel tunc vel adhuc
 in se solus sive satisfactus existentem) predictum us-
 que J. L. seipsum ad loca eidem J. B. penitus igno-
 rat elongare & adduc se abscondere ita quod predictus B.
 per nullos legis processus eundem J. recaptare possit
 Et proinde predictus B. non solum de huiusmodi
 predictum verum etiam totum beneficium & advan-
 tagium secte sue predictam perdidit & amisit Ad dampnum
 ipsius B. 561. Et inde producit sectam, &c.

Many Special Notes and
*Observations in the
 Court of COMMON
 PLEAS, taken by an
 Eminent Attorney of
 that Court, and Al-
 phabetically digested.*

Which may be of Good Use to
Young Clerks.

Abatement.

Several Cau-
 ses of Abate-
 ment.

CAUSES of abating a Writ or
 Complaint are, Want of sufficient or
 good Matter; or where it is not
 certainly alledged; Misnomer of the
 Plaintiff, Defendant or Place; Variance
 between the Writ, Specialty or Record;
 Death of the Plaintiff or Defendant be-
 fore

fore interlocutory Judgment; Incertainty of the Writ, Count or Declaration, another Action depending; and for divers other Causes.

Com. Pleas.

Vide ante 249.

3 Inst. Cler. 5.

Townsend's

and Corn-

wal's Tables.

In all Actions personal, real or mixed, where either of the Parties die after Verdict, and before Judgment entered; Judgment may notwithstanding be entered, within Two Terms after such Verdict. Stat. 17 Car. 2. cap. 8.

Where there are several Plaintiffs and one of them dies before Judgment the Writ abateth: But if one of the Owners in Ejectment dies, the Declaration is good for the Interest survives, and the Plaintiff is living. B. C. 1679.

One Plaintiff

dies, the Writ

abates; con-

tra in Eject-

ment.

If the Plaintiff or Defendant die (or both of them die) after an interlocutory, and before a final Judgment, the Action shall not abate, if such Action might be originally prosecuted by the Plaintiff, his Executors or Administrators against the Defendant, or his Executors or Administrators.

Stat. 8 & 9.

W. cap. 11.

If there are Two or more Plaintiffs or Defendants, and one or more die; if the Cause of Action survive to the surviving Plaintiffs, or against the surviving Defendants, the Writ or Action shall not abate; but such Death being suggested upon the Record, the Action shall proceed.

Mr. Livesey told the Lord North, That upon a Plea in Abatement, if the Plaintiff demurs, the Judgment is *Respondet Ouster*:

But

Com. Pleas. But if upon a *Nul tiel Record* (which is a Plea in Abatement) there be Judgment *per defect' de Recordo*, the Judgment is final; for Trial by Record is *quasi* by *pais*, *per tot' Cur'*.

Plea in Abatement pleaded in Bar.

Judgment in dilatory Pleas.

A Plea that goes to the Action and not to the Person of the Plaintiff, ought to be pleaded in Bar, and not in Abatement; and if pleaded in Abatement, it may, after a *Respondeas Ouster*, be pleaded in Bar.

Every dilatory Plea, or Plea in Abatement, ought to be certain to every Intent, and if a dilatory Plea be pleaded, and the Plaintiff take Issue upon it, he may conclude with *petit Judicium & dampna*, because there shall be a final Judgment; but where the Plaintiff does not deny, but confesses and avoids such Plea, he must conclude in Maintenance of his Writ. *Mod. Cases* 236.

By Statute 4 & 5 Ann. It is enacted, That no dilatory Plea shall be received in any Court, unless the Party offering the same by Affidavit prove the Truth thereof, or shew some probable Matter, that the Fact of such Plea is true.

A *Fi' Fa'* does not abate by the Plaintiff's Death. *Salk.* 322.

If you would plead in Abatement, or the Privilege of any other Court, as a privileged Person, you must not accept of a general Impar lance; but must either plead the same Term, or else crave a special Impar-

Imparlance, which the Plaintiff upon Request is bound to, if you give him 2 s. for entring of it. *Mich. 1679.* Com. Pleas.

Ac etiam Bille.

THE Statute 13 Car. 2. cap. 2. which enjoins the Certainty and true Cause of Action to be particularly expressed in the Writ or Process, which holds the Defendant to Bail, was the Foundation of inserting the *Ac etiam Bille* in Writs.

It ought not to be inserted in Actions Where *Ac* against Peers, Executors or Administrators, *etiams* to be, or in Actions on penal Statutes, nor for any *and where* Debt or *Assumpsit* under 10 l. nor in Actions of Account, Render, nor in any Action of Covenant or Trover, unless the Damages are 10 l. or more; nor in any Action of Trespass or Battery, Wounding or Imprisonment, unless there be an Order of Court for it, or a Warrant under the Hand of one of the Judges of the Court, out of which the Writ issues. not.

Actions.

ALL Actions and Causes cognizable by the Court of Common Pleas come in one of the following Ways. *viz.* First, By Original, as Arrest and Outlawries: Secondly, by Privilege, as Attachment Actions in B. C.

K k for,

Com. Pleas. for, or Bills against privileged Persons :

~~~~~ Thirdly out of inferior Courts of Record  
 \* Where the by \* *Habeas Corpus*, † *Certiorari*, &c. Fourth-  
 Body is in ly, Out of inferior Courts, not of Record  
 Prison by by ‡ *Recordare*, || *Pone*, § *Accedas*, ¶ and  
 Supposition of Law. Writ of False Judgment.

† Where the Body is not in Prison. ‡ To remove a Plaintiff out of the County-Court. || To remove a Cause which is there, by Justices, where the Original is directed to the Sheriff, but the Plea depends in another Court—the Removal is by a *Pone* directed to the Sheriff; but if the Original is directed to the Lord or his Bailiff, it is to be removed by *Recordare*. § To remove a Plaintiff out of the Hundred-Court. ¶ To remove after Judgment.

Actions in  
 B. R.

In the King's Bench the several Ways of Proceeding are, first, by Original Writ issuing out of Chancery; secondly, by Bill grounded upon the Custom of the Court; thirdly, by Attachment of Privilege grounded on the Grace and Favour of the Court; besides divers other Proceedings upon Actions removed out of inferior Courts, by Writs of *Recordare*, *Certiorari*, *Habeas Corpus*, and the like, into the King's Bench.

An express  
 Promise  
 makes a new  
 Action a-  
 gainst the  
 Statute of  
 Limitations.

If a Man *infra sex annos* do confess the Debt, the Statute doth not help it, but it must be an express Promise that must give a new Cause of Action; as if a Debt due from Three, and one *infra sex annos* make a new Promise, you must express it in your Declaration, or else it will not avail you. But as to a Brewer, his Action shall be continued from the last Beer delivered; and so of other Trades.  
*Mich — W. & M. Pollexfen.* If



If an Original be filed within six Years, that will save the Debt; but if no Promise be made within six Years after the filing the Original, another Original must be filed.

Com. Pleas.  
Original filed within six Years saves the Action.

*Action of Debt.*

**W**HERE your Cause of Action is Debt, and requires † Bail, as all do † By 12 Geo. where the Sum to be inserted in the Writ Affidavit is 10 l. or above, your best way is to must be take out an *Acetiam Capias*, the Original to which *Capias* is only a bare *Clausum fregit*; and you may afterwards when you come to Judgment, file a new Original to warrant such Judgment, whereas if your *Capias* be Special by *Præcipe quod reddat*, &c. in Case you happen to Mistake either in the Names, *alias dict'*, or Sum, it is pleadable in Abatement, and is not cureable, by filing a new Original afterwards; but you must discontinue your Action paying Costs, and begin *de novo*, or else the Defendant, if he does not take Advantage of it before, may after Judgment (where it is either by Confession or Default) by Writ of Error; so likewise where your Original happens to bear *Teste* before the Day of Payment, where you sue on Bond or Bill.

Quære Statu 4 & 5 Ann.  
Debt and Costs brought into Court—this is now done without Affidavit.

Action brought for 10 l. the Defendant made Affidavit, That there was no more than

K k 2

Com. Pleas. than 7*l.* due and prayed that upon bringing the 7*l.* and Costs into Court, Plaintiff may proceed at his Peril; and if he recover no more than 7*l.* that then he may pay the Defendant the Costs (*Concess. per Cur'*) but this must be before the Defendant has pleaded. But now if the Money you pay into Court be 5*l.* or above, you may of Course move the Court without Affidavit; and if the Debt be under 5*l.* the Secondary will, without Motion, grant you a Rule.

By *Stat. 4 and 5 Ann. cap. 16.* If at any Time, pending an Action upon Bond, with a Penalty, the Defendant bring into Court Principal, Interest and Cost, the Court shall and may thereupon discharge such Defendant.

*Action on the Case.*

**I**F upon an *Indebitatus assumpsit*, it appear at the Trial to be Matter of Account, and no perfect Account stated under the Defendant's Hand, the Plaintiff must be non-suit, for he cannot thereby maintain an *Indebitatus assumpsit*; for whilst the Account is current, there lies only an Action of Account, but when the Account is stated under the Defendant's Hand, it then turns to an Action of Debt, or an *Assumpsit* will then lie for the Ballance. *Per N.*

Upon an *Infimul Computasset*, the Day Com. Pleas. of the Account must be proved, and the certain Sum agreed upon, or otherwise the Plaintiff will be non-suited.

An Action of *Indebitat' Assumpsit* brought, and the Statute pleaded, the Plaintiff shews an Original issued in London, in Trespass and Assault, and that he intended to declare on this Action; but others being in the same, it was denied. *Trin' 2. W. & M.*

An Action of Conspiracy against two, and but one is found Guilty, the Plaintiff cannot have Judgment. 2 Roll. 708. *Mich. 1689.*

*Actions on Statutes.*

Upon pleading *Nil debet* upon a penal Statute, the Defendant may give a special Matter in Evidence. *Per Lord North, Mich. 1679.*

Upon the Statute of Robbery, when the Rules to plead are out, you must move the Court before you can sign the Judgment; *per Robinson; sed Contra per Wyrley*; but both agreed that the Court must be moved, in Case of penal Statutes.

The Defendant was arrested on a *Clau-sum fregit Acetiam* (&c.) and thereupon the Plaintiff declared in an Action *qui tam*: *Per Cur'* the Plaintiff cannot declare so on this Arrest, but must sue out a



Com. Pleas. proper Original, and a *Capias* thereupon,  
 and begin *de novo*.

An Action on the Statute 5 Eliz. per-  
 verted, and no Costs or Damages allow-  
 ed therein: *Per Lord Pallesfen*, and said it  
 must be expressly proved, that he himself  
 did work at the Trade, or else it is no  
 Proof, and you recover 40 s. *per Month*,  
 but no Charges — Cardmakers *vers* a  
 French-man.

### *Affidavits.*

**A**LL Affidavits sworn before Com-  
 missioners are filed with the Secon-  
 dary, and Copies of them signed by him  
 read in Court: But all Affidavits sworn  
 in Town before a Judge, or in Court, may  
 be read in Court, before the Filing with  
 the Secondary, and nothing paid for them.

Affidavits ought to express the Addi-  
 tion, and Place of Abode, of the Par-  
 ties who make them.

### *Agreement.*

**I**F the Plaintiff's Attorney, and Defen-  
 dant's Attorney agree to Things in or-  
 der to their Proceedings in their Clients  
 Cause, which are not manifestly prejudicial;  
 tho' the Clients do afterwards refuse to con-  
 sent to the Agreement, yet the Court will  
 compel the Performance of it; for as they  
 are

are Attornies, the Law allows them to Com. Pleas. make such Agreement. And if the Client should avoid them afterwards, it would be mischievous in Delay of Justice. *Per Rolle, Chief Just.*

*Amendment.*

**W**HERE Error is in the Process, there the Judges may amend it after Judgment, but if there be Error in giving the Judgment, (*viz.* a wrong Judgment is given) there they cannot amend it, but the Party must bring his Writ of Error, but where the Fault appears to be in the Clerk who writ the Record, it may be amended.

Costs omitted in the Roll, and Error brought and denied to be amended. *B. C. 1675.*

The Attorney's Name left Blank, and amended after Error brought. *Hoyle against Fenning, 6 W. & M.*

The Plaintiff may amend his Declaration in Matter of Form, after a general Issue pleaded, before Entry without paying Costs, or giving Impar lance, but if he amend the Substance, then he must pay Costs, or give Impar lance at his Election; but if he amend after a Special Plea pleaded, then he must pay Costs, although he would give Impar lance. *Per Magistrum Livesey, & alias Clericos.*

Original Writs are not amendable at Common Law.

Com. Pleas.

If Plaintiff  
amend, De-  
fendant may  
refuse Costs  
and imparl  
to the next  
Term.

If the Plaintiff would alter his Declaration, it is in the Election of the Defendant to take Costs, and let him amend, or refuse his Costs, and to imparle to the next Term. *Mich 22. c. Car. 1. B. R.* For by so doing the Defendant is at no Prejudice by the Amendment, for if he will, he may imparl to advise upon a Plea, fitting the Declaration so amended, or if there be no Cause to advise, then he may take the Costs, and plead.

If the Plaintiff amend his Declaration, the Defendant may plead *de novo*, for the Amendment may make a good Plea bad.

When a Declaration is come to be in Parchment, the Court can amend no further than is allowable by the Statutes of Amendment, for it is then a Record, but while it is in Paper, the Court may amend at Pleasure. *Salk. 47.*

*Sci' Fac'* not  
amendable  
nor Writ of  
Covenant.

*Scire Facias* on a Judgment, and by Mistake in the *Scire Fac'* the Plaintiff's Name was put for the Defendant's; held not amendable. *Salk. 52.* A Writ of Covenant held not to be amendable by Common or Statute Law. *Salk. 52.* See Title *Pleas.*

### Appearance.

Plaintiff  
may appear  
for Defen-  
dant, by  
*Stat. 12*  
*Geo. c. 29.*

**I**N all Cases where the Defendant is served with a Copy of the Process, the Action requires only a Common Appearance.



pearance ; and if the Defendant neglect <sup>Com. Pleas.</sup> to appear, the Plaintiff may within four Days after the Return of the Writ, enter a common Appearance in the Defendants Name, and proceed thereon; an Affidavit having been first made of the Personal Service of the Writ, and filed in Court.

Appearance in the *King's Bench* is the De- Appearance  
fendants Filing either Common or Special <sup>in B. R.</sup> Bail, if the Action be by Bill; and if it is by Original, then the Appearance or Bail, must be with the Filacer of that County, who issued the Writ.

But if the Appearance be in the Com- Appearance  
mon Pleas, then it must be entred with <sup>in B. C.</sup> the Filacer there, but if it be by Bill <sup>vide ante</sup> (as in the Case of a privileged Person) <sup>348.</sup> it must then be entred with the Prothonotary.

A Defendant may appear either in *propria Persona*, or *per Attornatum*; but if the Defendant be within Age, then *per Guardianum*. Shower 165. If an Infant sue, it must be *per Guardianum*, or *per Proximum Amicum*.

Where the Defendant pleads that he appeared, he ought to conclude his Plea *prout per Recordum inde apparet*. Cro. El. 466.

No Bail to be given upon a Bail-Bond, Appearance  
for that would be Bail upon Bail *ad In-on Bail*  
*finitum*. <sup>Bond.</sup>

Notice must be given to the Plaintiff's Appearance  
Attorney, of the Entrance of an Ap- on *Scire fac*.  
pearance on a *Scire Facias*.

If

Com. Pleas.  
 Appearance  
 by *Supersede-*  
*as.*

If an Exigent be returnable, *Cro. Ani-*  
*marum*; and you allow a *Supersedeas* in  
*Trinity Vacation*; yet the Defendant's  
 Appearance shall be but from *Cro. Ani-*  
*marum*. *Normansell versus Bickerstaffe*. M.  
 7. Wil. 3. 1695.

## Arrest.

**A**LL Arrests upon a *Sunday* are void  
 by *Stat. 29 Car. 2. cap. 7.* except  
 in Cases of Escapes out of the *King's*  
*Bench*, or *Fleet Prison*, by Virtue of a  
 Judge's Warrant, by *Stat. 5 Annæ.*

It is not sufficient for a Bailiff who  
 hath a Warrant against a Man, to say,  
 I arrest you at the Suit of *A. B.* Plain-  
 tiff in the Writ, but the Officer must  
 actually lay hold of him, or touch him,  
 otherwise it is no Arrest. *Cro. Jac. 486.*  
*Salk. 79.*

A Bailiff cannot justify the Breaking  
 open an House, to execute Process for  
 a Subject. *Cro. Car. 527.*

An Arrest in the Night is lawful. 9.  
*Coke 65.*

An Arrest before the Writ actually sued  
 out, is not justifiable by Antedate; and  
 it is a Trespass, though a Writ be deli-  
 vered afterwards. 3 *Keb. 231.* 1 *Sand. 298.*

By Statute 9 and 10 *W. 3. cap. 25.* Eve-  
 ry Officer or Clerk in the Courts of  
*Westminster*, shall set down the Day and  
 Year of his signing any Writ of Arrest  
 upon

upon such Writ, and duly enter the same *Com. Pleas.*  
on Penalty of 10*l.*

By Custom of the City of London, a Arrest in  
Serjeant may arrest the Party without *London.*  
the Sheriff's Warrant, if an Action be  
entred in either of the Counters; for such  
Entry is a Warrant in Law for the Arrest,  
and the Serjeants being attendant at the  
Counters, may take Notice of such En-  
tries.

A Sheriff may arrest in a Liberty with-  
out a *Non omittas*, and the Arrest is good;  
for the Sheriff is Sheriff of the whole  
County, and the Bailiff of the Liberty,  
may have his Remedy by Action, for  
entering his Liberty. *Per Glyn. Mich. 1658.*

Where the Husband is arrested for the  
Trespas, or other Act of his Wife, un-  
der Coverture he is bound to appear for  
himself and Wife. *Per North, 25 October,*  
*1679.*

*Persons arresting others in a fictitious Name,*  
*or without the Consent of the Plaintiff, shall be*  
*imprisoned six Months, and pay treble Cost and*  
*Charges. Stat. 8 Eliz. cap. 2.*

## Arrest of Judgment.

**W**HEN you move in *Arrest of Judg-*  
*ment* you must bring your Issue-  
Roll into Court.

When you alledge Matters of Fact in General  
*Arrest of Judgment*, the Matters of Fact must Rules for  
be arresting  
Judgments.



Com Pleas. be proved by Affidavit in Court. 26 Oct.  
 1679.

For want of Notice of Trial. In *Arrest of Judgment* in *Ejectment*, because no Notice of Trial, by two Affidavits, one by the Tenant in Possession, the other by the Attorney. *Concess per Cur*?

For want of due Notice. In *Arrest of Judgment*, because the Defendant had but ten Days Notice before the Trial at the Assizes, Mr. *Wyrley* the Prothonotary said that eight Days Notice exclusive, was sufficient Notice, before any Trial at the Assizes, and that Fourteen Days Notice was to be given only where the Action was laid in *London* or *Middlesex*, the Defendant dwelling above 40 Miles distant from *London*, otherwise eight Days Notice exclusive, to which the Court agreed.

For want of due Notice after Changing the Venue. In *Arrest of Judgment* because the Plaintiff having changed the Venue by Rule in the Treasury, gave not sufficient Notice to the Defendant, after the Venue so changed. *Concess per Cur*?. to set aside the Judgment, and Restitution was awarded to the Defendant. 27 October 1679.

Motion to stay Judgment on an Action of Trespass, for mean Profits, where the Trial of an *Ejectment* was by Surprise, where 60 Years Possession was had by Lessee in an Action of Mean Profits, they might have pleaded specially, as *son Frank Tenement*: *Per Cur*?, they could not help him. *Mich. 1689. Styles vers Comes.*

Arrest of Judgment to be moved in 4 Days. No Motion to be made in *Arrest of Judgment*, after the First four Days in Term, by *Wyrley*, Prothonotary. But the Court

Court did give the Bar a further Day Com. Pleas. to move upon Peremptories; and in *Arrest* of Judgment in those Causes, whose Names the Serjeants should give the same Night to the respective Prothonotaries in whose Office the Record was.

Ordered, That because there wanted an Alias *prout patet* in the Roll, Judgment should be arrested. *Reed vers' Palmer, Mich. 1689. Pollexfen.*

Because the Defendant before the Trial did tamper with one of the Jury, and afterwards treated them, and allowed to be good Cause to arrest Judgment. Defendant treated the *Pasch. Jury. 2 W. and M. Pollexfen, Ch. Justice.*

Concluding in an Action of *Assault*, For wrong Conclusion. *contra pacem Dom' Regis* where it should (*per Stat. 1 W. & M.*) have been *contra pacem Regni*; Judgment arrested. *Isley vers' Racy.*

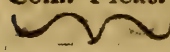
Attornies.

**I**N Executions against Attornies, and other privileged Persons, where your by Bill and Judgments are on Proceedings by Bill Attachment or Attachment, instead of *Precipimus tibi* in *B. C.* *quod Capias*, you say *Attach'* and make them returnable on a Day certain like your Attachment, and like the Proceedings in *B. R.* by Bill.

If an Attorney be arrested he may put in Bail to the Action, and plead his Privilege before a General Imparlance.

Motion

Com. Pleas.

 Motion against the Secondary of the Compter, for not discharging an Attorney upon a Writ of Privilege without Bail : *Per Lord North*, If an Attorney be sued by Process out of an inferiour Court, a Writ of Privilege should be allowed and he thereupon discharged ; but if by Process out of a superiour Court, he must bring his *Superfedeas*, because the superiour Court is of equal Nature with the Writ of Privilege.

It was alledged by the Plaintiff, that the Attorney kept an *Alehouse*, he being asked why he sued out a *Capias* against him, before he forejudged him. Upon this the Prothonotary and the Court said, that he must (and so the Course is) make his Election, whether he will leave of his Trade, or be put out of the Roll.

Forejudger.

After an Attorney is called in Court, upon a Bill filed against him in one of the Prothonotary's Office, you must give a Rule, and if he appears not, then he will be forejudged, and you may then arrest him, but if you arrest him before he is forejudged, he may discharge himself by *Superfedeas*.

*Superfedeas*  
on Arrest.

Utlagat'.

After you sue an Attorney by Bill, you cannot have an *Utlagat'* against him after Judgment.

Writ of Pri-  
vilege.

If an Attorney would save an arrest upon Process of one of the Courts at *Westminster* by his Privilege, he must deliver the Writ of Privilege to the Sheriff, and allow it with him (the Fee is 2 s. 4 d.) otherwise



otherwise if the Writ be not allowed, and the Attorney be arrested, the Sheriff cannot discharge him upon his Writ of Privilege; but if the Process be out of an inferior Court, it is a Discharge as aforesaid, and the Plaintiff must sue above.

An Attorney if he plead his Privilege, it must be *sub pede sigilli*.

Privilege pleaded.

The want of filing a Bill against an Attorney, is not helped by the Statutes of *Jeofails*, but erroneous *B. C. 1688*.

Error for not filing a Bill.

If an Attorney sue for Fees, &c. and lays his Action in *Middlesex*, the Court will not alter the Venue (although the Cause he was employed in, was laid in another County) for the Debt arises in *Middlesex*, where the Records lie, and the Business is done.

An Attorney may chuse whether he will sue, or be sued, out of the County of *Middlesex*, because his Attendance is supposed to be always there. *Trin. 3 W. & M.*

May sue or be sued in *Middlesex*, and not elsewhere.

An Attorney, being an Executor shall not sue or be sued, as a privileged Person. *Hob. 177. 2 Inst. 157.* Neither shall he have his Privilege in an Action brought by himself and his Wife, because his Privilege is allowed him by the Court, for the Recovery of his Fees. *2 Sid. 157. 1 Vent. 299. Dyer 237.*

Attorney may bring his Action for his Fees, for soliciting in the *King's Bench*, Court of *Exchequer*. or *Chancery*.

No Attorney, Solicitor or Servant to any, shall be allowed any Fee given to Counsel, or Money

Com. Pleas. *Money given for Copies, to Clerks and Officers of the Court, unless he have a Ticket thereof subscribed by them.*

Attorney's  
Bill to be  
delivered  
to Clients  
before Acti-  
on brought.  
Stat. 3. Jac.  
1 cap. 7.

*All Attornies and Solicitors, shall give a true Bill of all other Charges to their Clients, subscribed with his own Hand, and Name, before such Time as they or any of them shall charge their Clients with any Fees or Charges.*

*Note, This Bill must be a Bill of Particulars, and by a late Resolution must be delivered before the Defendant is arrested, otherwise the Plaintiff will fail in his Action.*

*This Statute may be given in Evidence on Non Assumpsit pleaded.*

Stat. Limita-  
tion not  
pleadable to  
an Attorneys  
Bill.

*Assumpsit by an Attorney for his Fees, &c. for Money laid out and for Labour, &c. the Defendant pleaded the Statute of Limitation; on Demurrer to the Plea, it was adjudged ill; for the Statute is not pleadable where the Action is for Fees, because they depend on a Record. 3 Levinz, 221.*

Warrant of  
Attorney.

*Moved to file a Warrant of Attorney for the Tenant in a Recovery (who appeared by Warrant) after the Writ of Error brought; it seems to the Court, the Warrant was burnt in the Attorney's Chamber by the Fire, 1678. no Certificate to be made by the Clerk of the Warrants, till moved by the other Side.*

*A Warrant of Attorney to confess a Judgment cannot be revoked by Mr. Wyrley.*

*If a Man be under an Arrest, and gives a Warrant of Attorney for confessing a Judgment, it will be set aside, unless*

*an*

an Attorney of one of the Courts is a Witness to the Execution thereof. *Mod. Cases* 85. Com. Pleas.

A Warrant of Attorney may be filed after a Writ of Error brought, if a *Ne Recipiatur* is not entered with the Clerk of the Warrants.

### *Attachment.*

When a Defendant is taken on an Attachment for Contempt, as for not paying Costs on a Rule, or the like (which Attachments are never granted but on Affidavit and Motion) he gives a Bail-Bond to the Sheriff, and at the Return of the Writ appears not by Attorney but personally in Court, and then enters into Recognizance to appear there *de die in diem*; till the Court shall otherwise determine: Then upon Motion by Counsel, the Court orders, that unless the Adversary exhibits Interrogatories against him within Four Days after Notice, he shall be discharged; the Interrogatories must be filed with the Secondary of that Office it is in, and by him the Defendant must be examined, being first sworn before a Judge to deposite the Truth: After his Examination, the Prosecutor takes Copies of his Depositions; and if he finds all denied, he brings up his Witnesses to prove the Contempt *Viva Voce* in Court, where the Defendant must appear to confront them, Attachment on Contempt.

L I and



Com. Pleas. and answer the Questions the Court shall demand (he all the Time kneeling): If the Court judge him guilty of the Contempt, they send him to the *Fleet*, or else discharge him; if he neglects to appear before the Secondary to be examined, or afterwards before Court upon his Purgation, the Court upon Motion will order his Recognizance to be estreated: If he confess any Thing material in his Depositions, you need not send for Witnesses, but move on his Confession, and pray the Court's Order thereon.

An Attachment issued against an Attorney going to Judgment without Warrant, the same being a Contempt of the Court; a Conspiracy lies against him, and against the Defendant also.

Attachment  
pro Costs.

Where a Man is taken upon an Attachment for Costs, he must pay the whole Costs of the Attachment, besides the Costs before taxed; also that Bail may be given, and ought (if sufficient) to be accepted upon an Attachment for Contempt.

FemeCovert.

A Feme Covert taken on an Attachment on Contempt, must answer in Custody if her Husband will not appear for her.

If a Rule be made for Payment of Costs to the Plaintiff or his Attorney, the Costs must be demanded by one of them, for it is not sufficient for another Person (tho' he take the Rule with him) to demand them, for it does not appear by what Authority he makes such Demand, for the Plaintiff or his Attorney ought to

## Attachment.

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give such Person a Letter of Attorney or a proper Endorsement on the Rule for receiving such Costs, which he must shew the Party, and by Virtue thereof demand the Costs; and if he refuses to pay upon an Affidavit of such Demand, the Court will grant an Attachment.

Com. Pleas.

*Procedendo* was moved for ——— upon a Foreign Attachment. Lord North, If the Bail be put in, the Attachment is dissolved; if the Bail be refused, there must go a *Procedendo* for Want of Bail.

*Procedendo* on Attachment.

An Attachment where a *Rescous* was returned, and several of the Defendants made Affidavits, that they were not there at the Time of the *Rescous* pretended. Ordered, That an Attachment go against the Bailiff ——— There need no Interrogatories on an Attachment for Rescue, the Court being to judge and set your Fine. *Pasch. W. & M. Pollexfen.*

Attachment on *Rescous*.

Upon a *Rescous* returned by the Sheriff, you may have an Attachment without Motion.

No Attachment to be granted until a *Nisi Causa* Rule be served. *Trin. 93. Treby.*  
*Vide postea* Declarations.

*Audita Querela.*

*Metcalf* versus *Lloyd*. Mich. 1691. The Defendant in Trinity Vacation was taken in Execution, having before the Time paid the Plaintiff, and had her Receipt;

Com. Pleas. yet ordered, That he must for all that  
 ~~~~~ bring his *Audita Querela*, if he will be re-  
 lieved.

Bail.

Bail to the Sheriff for Appearance. **W**HERE the Defendant is arrested, the Sheriff's Officer takes a Bail-Bond for the Defendant's Appearance at the Return of the Writ, and within such Time after the Return as limited by the Rules, the Defendant must put in other Bail above. Bail to the Action, either before Commissioners in the Country, or before a Judge at his Chambers, and these engage to satisfy the Condemnation and Costs, or to render the Defendant to Prison.

One escaping from his Bail on a Sunday. The Bail may take up the Principal on a Sunday, and confine him till the next Day, and then render him. 6 Mod. 231.
 on a Sunday. The Defendant shall not be arrested, nor Bail taken in any Action, unless the Plaintiff make Affidavit of his Debt. Stat. 12 Geo.

If the Plaintiff be nonsuit, and afterwards commences a new Action for the same Cause of Action; he shall not have special Bail in the Second Action, though he might have insisted on it in the First.

Bail can be justified only in Court, and the Filazer where the Writ was issued out is to bring with him his Book, for which you pay him 3 s. 6 d.

If

If the Plaintiff proceed on the Bail-Com. Pleas. Bond in Order to stay the Proceedings, you must put in special Bail above, who ought to justify themselves; you give Notice thereof to the Plaintiff's Attorney; and then you move the Court, or take out a Summons from one of the Judge's, that upon Payment of Costs, all Proceedings on the Bail-Bond may be stayed; and the Court or a Judge will stay the Proceedings, in Case the Plaintiff has not been delayed of a Trial or of obtaining Judgment against the Principal, and putting the Plaintiff in as good a Condition, as if the Bail-Bond had not been assigned: But this Application must be made before the Rules to plead are out, or Judgment signed against the Bail for want of a Plea.

Staying Proceedings on the Bail-Bond.

After Bail above is put in, and the Plaintiff proceeds in the Original Action, the Bail may on, or before the Return-Day of the *Scire Facias*, with a *Scire Feci* thereon, or on, or before the Return of the second *Scire Facias*, surrender the Principal in Discharge of themselves; or if the Principal die before such Time, the Bail are discharged.

What Time the Bail have to surrender the Principal.

The Bail on a Writ of Error must pay the Condemnation, and Rendering the Principal will not save them. *Cro. Jac.*

Bail on a Writ of Error.

Com. Pleas. If the Plaintiff sue the Bail-Bond, he cannot refuse the same Persons to be Bail to the Original Action; but if the Plaintiff proceed against the Sheriff by Action, if the Amerciaments, he is not compellable to Bail-Bond be accept those Persons who were Sureties sued. to the Sheriff, to be Bail to his Action.

And the Bail in an inferior Court shall serve above. So if a Cause be removed by *Habeas Corpus* out of the *Marshalsea*, or any other inferiour Court, and the Bail there offer to be Bail to the Action, here the Plaintiff is compellable, to take them; because he might, but did not except to them below; *aliter*, where a Cause comes hither

Otherwise if out of *London*, for the Sufficiency of Bail there is at the Peril of the Clerk, and he is responsible to the Plaintiff, so that the Plaintiff had not the Liberty of excepting against them, and the Clerk is not responsible if they be deficient in this Court, though he was in *London*. *Salk.* 97.

Where the Sum recovered, exceeds the Sum in the *Acetiam*, the Bail shall be liable only *pro tanto*.

Principal not in Court, when Bail Bond sued. Upon a Bail-Bond moved that the Defendant in the Original Action, might be admitted to bring in the Principal Money, Interest and Cost, and denied, because the Defendant was not in Court. *Pasch. 2 W. & M. Pollexfen.*

If no Appearance be enter'd, the Bail-Bond is not discharged, though the Principal render himself to the Officer. 3 *Mod.* 87.

Bankrupts.

Bankrupts.

PER Cur^s, No Creditor is bound to give Security against a Statute of Bankrupt, upon an Attachment of Monies due to his Debtor; the best way for him, in whose Hands the Money is attached, is to let a Judgment for the Money so attached, be had against him, and that will be for him a sufficient Discharge.

If the Debt be assigned by the Commissioners of Bankrupt, such an Assignment is a good Plea against the Bankrupt. *Lutw. 701.* Assignment by Commissioners. Vide the Stat.

The Bankrupt's Certificate is no Discharge to the Bail; for unless they surrender such Bankrupt, before the Return of the first *Scire Facias* with Notice, or the Return of the second *Scire Facias* without Notice, they will be charged with the Debt.

If an Action be brought by the Assignees, they are obliged to prove the Debt, on which the Commission was taken out, an Act of Bankruptcy, and the Commissioners Assignment to the Assignees.

Defendant
to have Costs
in all Cases
where Plain-
tiff would
have had
Costs.

THE first Statute which gave the Defendant Costs, if a Verdict was found for him, was the *Stat. Marl. c. 6.*

It is a Rule, that where the Plaintiff shall have his Costs, if he recover against the Defendant, the Defendant shall have his Costs, if the Plaintiff be *Non-suit*, or recover a Verdict against him, (unless in Case of Executors or Administrators) for which Costs the Defendant shall have such Process and Execution, as the Plaintiff might have had. *Stat. 23 H. 8. cap. 15. Stat. 4 Jac. 1. c. 3.*

Action for
Words.

By the *Stat. 21. Jac. 1. cap. 6.* If the Plaintiff in an Action upon the Case for Words, doth not recover 40 s. Damages or more, he shall have no more Costs than Damages.

No more
Costs than
the Sum re-
covered
where the
Debt does
not exceed
40 s. *Stat.*
43. *Eliz. c. 2.*

In personal Actions brought in the Courts of *Westminster*, (not concerning any Title or Interest in Lands, nor for any Battery) if it appear to the Judges of the Court, or be so signified or set down, that the Debt or Damages does not amount to 40 s. then the said Judges shall award for Costs no more than the Sum of the Debt or Damages so recovered, but less at their Discretions.

And for making this Act effectual, it is further enacted by the 22. and 23.

Car.

Car. 2. cap. 9. That in Actions of Trespass, Assault and Battery, and other personal Actions, if the Jury find the Damages to be under 40s. the Plaintiff shall recover no more Costs than the Damages so found amount to, unless the Judge at the Trial of the Cause, shall find and certifie under his Hand on the Back of the Record, that an Assault and Battery was sufficiently proved, or that the Free-hold, or Title of the Land was chiefly in Question. *Com. Pleas.*

Unless the Plaintiff in a Personal Action declare before the End of the next Term, after Appearance a *Non pros* may be entered, and the Defendant shall have Judgment to recover his Costs. *Stat. 13.*

Car. 2. cap. 2.

Double Costs shall be given the Plaintiff, where the Defendant brings a Writ of Error, and the Judgment be affirmed. *13 Car. 2. cap. 2.*

If Judgment be given for the Defendant, and the Plaintiff bring a Writ of Error, and the said Judgment be affirmed, the Writ discontinued, or the Plaintiff *non suit*, then the Defendant shall have Costs.

In Actions of Trespass brought in of the Courts at *Westminster*, where at the Trial the Judge shall certifie the Trespass Wilful and Malicious, the Plaintiff shall recover his Damages and full Costs; not to extend to Executors or Administrators, where they are not at present liable to pay Costs. 8 and 9 *W. 3.*

No

Com. Pleas.

No Cost at
the Suit of
the King.
Where an
Executor
need not
name him-
self, he shall
pay Costs.

No Costs shall be awarded to the Defendant, where the Suit is commenced for the Use of the King. 24 H. 8. cap. 8.

The Statute 4 Jac. cap. 3. which gives Costs to the Defendants, extends not to Executors, who sue in *Auter droit*, but where it is for a Conversion, or Tort in their own Time, they shall pay Costs; and it has been laid down for a Rule, that where an Executor brings an Action in which he need not name himself Executor, there if he be nonsuit, he shall pay Costs. Cro. Jac. 361. 229. Mod. Ca. 94. 181. Cro. Car. 159.

Covenant.

Bail on Covenant.

ONE was arrested upon an Action of Covenant, to levy a Fine (he had received 400*l.* and was to have 100*l.* after the Fine was levied) and was committed to the *Fleet*, till he either found Bail, or levied the Fine according to the Covenant. This was a Special Case, for Special Bail is seldom granted in an Action of Covenant, unless it be to pay the Money.

Debt.

Debt on several Obligation.

ONE may join two or more Debts due upon several Obligations from the same Party, and declare in one Declaration,

claration, upon the several Obligations, Com. Pleas
 for there is no Prejudice but rather a
 Favour to the Defendant, by saving him
 Expences.

Where Money is paid into Court *per Regul'*, upon a Specialty, the Interest must be paid till that Time.

Upon a Tender of the whole Money, Tender.
 due (where the Debt is not by Specialty)
 before Action brought if the Plaintiff re-
 covers no more than the Money tender-
 ed, the Defendant shall have his Costs.

If you intend to plead a Tender, you Uncore
 must not take an Imparance, for after prist.
 an Imparance, you are estopped to say,
Uncore prist.

By the Act 4 and 5 *Annæ*, The Defen-Principal,
 dant may at any Time, pending an Action on Ec. brought
 a Bond, with a Penalty, bring into Court into Court.
 the Principal Interest and Cost, and the Mo-
 ney so brought in shall be taken in full Satis-
 faction, and the Court shall give Judgment ac-
 cordingly.

Debt upon Bond for Performance of Co-
 venants, *viz.* Not to sue the Trade of a
 Carver, *Per Cur'* it is safer to proceed on
 the Covenant.

In a Declaration on a Bond, if the
 Date be mistaken, you must plead Date of a
Non est factum. Per Wirley. Bond mista-
ken.

You cannot plead *Nil debet* to Debt on a Nil debet to
 Bond, but the Plaintiff may demur to a Bond.
 such Plea.

Payment may be pleaded in Bar to an Ac- Payment
 tion of Debt, brought on a single Bill; or where pleaded to
 an Action of Debt or *Scire Facias* is brought on Bonds. Stat.
 4 & 5. *An.*
a Judg. cap. 16.

Com. Pleas. a Judgment——Payment may likewise be pleaded in Bar to an Action of Debt on a Bond, conditioned for Payment of a lesser Sum, at a Day or Place certain, if Payment was made before the Action brought, though not strictly according to the Condition, or Defeasance.

On an Action of Debt on a Judgment.

If you bring an Action of Debt *sur Judgment*, you shall recover your full Costs, besides the full Judgment; but if you take out Execution upon the first Judgment, then you must pay the Officer and Sheriff's Fees: Therefore where the Defendant is able and will pay, your best Way is to bring an Action of Debt against the Defendant upon the first Judgment.

How to sue an Original where part is paid.

If a Bond be for 100 *l.* or more, and Part be paid you, to save the Fine (if the Residue be not finable) sue out your Residue only, and declare upon that Original for the whole Bond; but then you must be sure to alledge it in your Declaration *Satisfecit* for so much as is received, and declare only for the Residue. If you do not so, the Defendant may plead the Variance (between the Original and the Bond) in Abatement.

Above 40 *l.* is finable. *Vide ante* 316.

Costs allowed that are expended in Chancery.

An Action of Debt brought on a Bond, and after the Arrest the Defendant files a Bill in Chancery, and gets an Injunction; which is dissolved, and moved, That the Costs in Chancery may be allowed there; Which is granted *per Cur*?

Decla-

Declarations.

All Copies of Declarations, Issues and Demurrers in Actions on Statutes, Debt on Judgments, *Scire Facias*, Prohibitions, *Quare Impedit*, and Real and Mixt Actions, cost you 8 *d.* per Sheet: So likewise do Copies of Special Verdicts, and Writs of False Judgment, and all Copies out of the Treasury; and in paying for Copies of Issues and Demurrers in Common and Personal Actions, if in your Plea you have set forth Records, I think you pay 8 *d.* per Sheet for your Plea only, and 4 *d.* the rest.

Where a Defendant pays for Copy of Declaration, and the Cause comes the same Term to Issue, he is not obliged in taking the Issue, to take and pay for a Copy of the whole Book, for that were to pay for two Copies of one Declaration in one Term; but he must only pay for a Copy of the Plea and other Proceedings, which are subsequent to the Declarations.

Against several Defendants in one Bond, if the Defendants all appear by one Attorney, he is not bound to more than one Copy of the Condition.

Entring Imparances is now almost left off; and indeed since we have so necessary a Way of filing new Originals (which serves as well) 'tis best omitted: For you have many Times Occasion to mend your Declaration.

Com. Pleas. Declaration, which cannot so well be done after the Impar lance entred. Besides, If you enter your Impar lance, and happen to have Judgment afterwards by Default or Confession, you are obliged notwithstanding to file a New Original, or else your Proceedings will be vicious; for your Original on which your *Capias* is made, is generally a *Clausum fregit*, which is no Original to warrant your Declaration, and subsequent Proceedings. Now this New Original must be returnable in that Term whereof your Impar lance is entred, which many Times cannot be; for we usually sign Judgment at the End or after a Term, when 'tis too late to bespeak an Original of the preceding Term, and of that Term it must be, or else it will do you no good; because it must antecede the Impar lance; and 'tis not Prudence to bespeak it before you have, or see you shall have Judgment: For if the Cause happen to come to Issue, you have no Need thereof. The want of an Original, as well as of an Impar lance, being no Error after Verdict, altho' the Want of Warrant of Attorney is.

Vide postea
Original.

Entred in
some special
Cases.

But where your Proceedings are by Bill, and not by an Original, as against an Attorney, &c. you must, if you give an Impar lance, enter it; and likewise in all Real Actions you must give an Impar lance, and enter it.

Rules to
plead.

In all Causes where you have given Impar lances, you may your self enter Rules
to

Declarations.

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to plead in the Common Remembrance, Com. Pleas. without paying any Thing; but where you give no Imparlance, you ought to enter the Rules with the Secondary.

So where the Plaintiff hath mistaken in his Declaration, and the Defendant hath either demurred or pleaded in Abatement to it, the Plaintiff having not joined in Demurrer, may amend and force the Defendant to plead presently upon paying him 13 s. 4 d. Costs, or else may give him a further Imparlance, and pay him no Costs. If the Defendant hath pleaded the General Issue, the Plaintiff may amend without paying Costs before he hath delivered a Copy of the Issue, or afterwards with Costs.

You must shew the Rule of Court, and tender the Costs thereby ordered to the Defendant's Attorney, upon Amendment of your Declaration; 25 October 1679. Tender of Costs, and shew Rule upon A. amendment.

Where a Man arrests and imprisons a Feme-covert, the Plaintiff shall declare against a the same Term, and the Feme shall plead her Coverture in Abatement. *Per Cur'*, To declare against a Feme-covert in Prison. upon a Motion.

Where the Plaintiff is nonsuited, and brings a new Action for the same Cause, he must pay Costs of the Nonsuit before the Defendant is bound to plead. Upon a Non-suit Costs.

Per

Com. Pleas

Per Cur', Where the Plaintiff (to save Costs where the Plaintiff doth not sever his Action, and deliver several Declarations; yet if it goes against him, the several Defendants shall have several Costs taxed by the Prothonotaries, and thereupon several Attachments.

Notice of Amendment before Effoin-day.

In Thesaurar' per tot' Cur'. If the Plaintiff's Attorney mistake in the Declaration delivered, and he gives Notice thereof before the Effoin-Day, the Defendant cannot take any Advantage of such Mistake whereof he had Notice, because the Plaintiff may amend it; and it was then ruled, That the Defendant (who had pleaded in Abatement) because of a Mistake, whereof he had Notice before the Effoin-day, should plead in Chief, and should have no Costs. But Affidavit must be made of the Notice.

Affidavit.

Pay upon a Special Writ.

Where upon a Special Writ you plead the same Term, you must not pay for the whole Copy of the Issue; but only for so many Sheets as are over and above the Declaration you paid for before. See before.

Delivery on Effoin-day.


The Delivery of a Declaration on the Effoin-Day, is not good to have a Plea the same Term, tho' it be delivered before the Effoin is kept.

Mend, when.

If Demurrer be not joined, the other Party upon paying Costs, may mend by Course of the Court without Motion.

Declaration with Blanks.

If a Declaration be delivered with Blanks, which are only Matters of Form, as for Time

for Time, Place or Name, the Defendant's Com. Pleas.
 Attorney must call upon the Plaintiff's 
 Attorney to fill them up, and after some
 reasonable Time the Defendant's Attor-
 ney may demur therefore; but if he de-
 murs without such Calling for to have
 them filled up, the Court will set the
 Demurrer aside.

Declarations upon penal Statutes, *Qui Narr' on pe-*
tam, &c. are not amendable after Issue join- nal Stat. &c.
 ed. *1 Mod. 144.*

A Declaration founded on Original Narr' on O-
 Writ, cannot be amended if the Writ be iginal not
 erroneous, because the Original upon amendable.
 which it is grounded, if it be erroneous, is
 not amendable.

If the Plaintiff will declare in another Bail liable
 County than to which the Writ was di- and where
 rected (except in case of a *Testat'*) or in a not.
 greater or other Sum than is laid in the
 Writ upon which the Arrest was, and to
 which they put in Bail, the Bail shall
 not be liable.

If the Defendant hath been at no Costs Amendment
 of Counsel for his Plea, the Plaintiff be- of Declara-
 fore Issue joined may by Course of the tions.
 Court amend his Declaration upon pay-
 ing his Costs, or giving a further Impar-
 lance, at this Election: But if the Plead-
 ings be entred on the Roll, there are no
 Amendments, but he may enter a Dis-
 continuance, and so go on *de novo*. *Trin.*
1690. Vide postea tit. Plea.

Com. Pleas.

Pledges necessary.

In Declarations either by or against Attornies, you must at the End say,

pleg' de pros' Scit: { Iohes Doe.
 &
 Ricus Roe.

But see the Act for Amendment of the Law.

Demurrer.

Where the Conclusion of the Demurrer is in Abatement, and the Commencement in Bar, the Judgment shall be peremptory. 1 Lev. 312.

Judgments on Demurrers.

Costs.

Where the Defendant either demurs, or is demurred unto, or he joins in Demurrer, if he happen to be over-ruled, he has no *Respondeat Ouster*; but shall be condemned presently, and the Judgment against him is the same as by Default, and Costs allowed. Whereas on the contrary, if it be adjudged against the Plaintiff, he loses his Action, but pays no Costs. And the Court usually, if the Plaintiff desires it, when upon Argument his Default comes to be discovered, allows him Liberty to amend, paying Costs, and orders the Defendant to plead to Issue presently. Where a Demurrer is to a Defendant's Plea in Abatement, if the Plea be found insufficient, he has a *Respondeat Ouster*.

And

And so it seems, if the Defendant demur to the Plaintiff's Repl' in Abatement. See before in *B. R.* and see before Title *Abatement*. Judgment final upon a *defecit de Record sur nul tiel Record*. Com. Pleas.

Before Argument the Court upon Motion many times allows the Defendant on Payment of Costs to amend his Plea when the Plaintiff has demurred to it, and he joined: So likewise, if he has demurred and the Plaintiff joined, the Court often suffers him to withdraw his Demurrer and plead: But the Court usually in these Cases takes Notice, whether by this Means the Plaintiff has been put by a Trial; for if he has, they will scarce shew the Defendant so much Favour. Amendment after Demurrer joined.

Where the Cause of Demurrer is Matter of Law, you are not bound to set it out in your Demurrer; but where 'tis Matter of Form you are. Therefore if a Declaration be faulty, and you think the Plaintiff cannot well find it out, your best Way is not to demur; for then when he discovers his Fault, as of Necessity he must when you set it out, he will amend; but your better Way is to plead a naughty Plea, such as he cannot well take Issue upon; for then if he demurs, the Fault appearing first on his Side, you'll have the Advantage. But see the Act for Amendment of the Law, *ante* 288. Where to demur, and where not.

When the Demurrer is joined, the Defendant is bound to receive and pay for one Book presently; then the Plaintiff having entred it on the Roll, delivers the Roll Arguing Demurrers, and Delivering Books.

Com. Pleas. to the Secondary, in whose Office it's in, and gets a Serjeant to move on it for a *Consilium*, or speedy Day, to be heard to argue it, which the Court grants on the Secondary's Reading the Record: If it be in the Beginning of the Term, it will come on the same Term, otherwise the next. Then the Defendant must receive and pay for two Books more, and the Plaintiff enters the Demurrer in the Court Book with the Secondary of the chief Prothonotary, who sets down on his Rule the Day appointed for Argument, at least four Days before the Day of Argument; the Plaintiff delivers one Book to the Chief Justice, and another to the next Judge, and the Defendant delivers two to the other two Judges, paying with each Book 2 s. he that demurs argues first: And if the Defendant hath refused to take and pay for his two Books, his Counsel is not to be heard; but the Plaintiff in such Cases delivers all four to the Judges, and is to be allowed it in Costs, whether the Demurrer goes for or against him. The Court hears but two Counsel, that is one of a Side, in one Day, and seldom gives their Judgment the same Day: But if desired by either Party, will hear a further Argument the next Term, unless the Case be very plain.

Amendment. Upon a Demurrer before Joinder, you may amend paying Costs.

No Costs
paid on a
Demurrer.

If the Plaintiff demurs, and the Judgment be against him, the Defendant hath no Costs; for the Entry of the Judgment is *quod Quer' nil capiat per bre'*. By

By the Course of the Court the whole Com. Pleas. Record shall not be read upon opening the Demurrer, unless it be a Demurrer to the Declaration only; but where it appears upon the Opening to be a Demurrer for Delay only, the Court will hear the whole Record, though there be a Plea, &c. And if they find it only be for Delay, they will give Judgment presently.

Reading Demurrer.

See the *Doctrine of Demurrers*; And *vide ante tit. Declarations.*

Dower.

All Proceſs in this Action, from the Summons to the *Venire fac'*, muſt have five Returns (whether inclusive or exclusive) between the *Teſte* and the Return. In the *Venire fac'*, five Days ſuffices, *per Stat.* 17 Car. N. B. where a Writ of *Dower* is brought againſt ſeveral Tenants, every Tenant may eſſoin for himſelf and give an *Idem dies* to the other, and this is called by Eſſoin: But in the View your Attornment (though ſeveral) ſhall be one.

Proceſs in Dower.

You cannot ſign Judgment in Dower of Courſe when the Rules to plead are out; but you muſt move the Court, and have Rule for your Judgment.

To ſign Judgment in Dower, how.

When you caſt an Eſſoin, you pay 10 *d.* and 4 *d.* if more Tenants than one for an *Idem dies*, and 4 *d.* for your Rule to adjourn.

Coſts of Eſſoin, &c.

Ejectment.

Delivery of
Declarations
in Ejectment.
* *Per Regul'*
Mich. 1689.

Delivery of Declarations in Ejectment must be to the * Tenant himself (in Possession) or his Wife, otherwise not good, tho' it be to the Tenant's Son or Apprentice, unless the Tenant doth afterwards acknowledge the Receipt thereof: And of his Acknowledgment there must be made particular Mention in the Affidavit; and a Copy of the Declaration must be annexed to the Affidavit, otherwise not good.

If there be No body in the House or on the Premises, you may seal a Lease of Ejectment. But if you proceed by Delivery of the Declaration, it must be done as above; and not carried into, or left at the House, for it is not sufficient Service.

By the Practice of the Court, the Declaration in Ejectment ought regularly to be delivered before the Effoin-Day of the Term; and if it be a Country Cause, the Tenant has all the Term and Four Days after to appear and plead, before Judgment can be obtained against the casual Ejector; and in the *English* Subscription you must say, *to appear the next Trinity Term*: But if the Cause be in *London* or *Middlesex*, you say in the Subscription *to appear the First Day of next Trinity Term*, and there is a Rule made the 32 Car. 2. *That in all Ejectments in London*
and

and Middlesex, no Rule shall be made against the casual Ejector, unless the Court is moved within One Week next after the First Day of Michaelmas and Easter Terms, and within Four Days next after the First of Hillary and Trinity Term. But notwithstanding this, tho' the Times in the above Rule are elapsed, yet the Court will on Motion, grant a Rule against the casual Ejector. Com. Pleas.

Note, It is said, if a Declaration in London or Middlesex be delivered the First or Second Day in Easter or Michaelmas Term, the Tenant must either plead or the Plaintiff may have Judgment.

You cannot sue out an *habere facias possessionem*, upon a Judgment in Ejectment after a Year and a Day, without first suing out a *Scire facias* to revive the Judgment.

In Ejectment there was a Trial to be at Plaintiff in Bar this Michaelmas Term, and before Issue joined, the Plaintiff died: Motion, That they might make a new Plaintiff. Ejectment dies before Issue joined.
Per Cur', That cannot be by Rule of Court, because by his Death the Action is abated: But the Court advised the Defendant to agree to it. Mich. 1679.

In Ejectment a Copy of the Issue signed and deliver'd to the Defendant's Attorney, the Time of the Demise was left out, and no *Habend'* in the Declaration, it was referred to the Prothonotary to examine. Mr. Robinson said, That the Rule to confess Lease, Entry and Ouster, would help it. No *Habend'* nor Time of Demise in le Copy del Issue.

Com. Pleas.

The Court will never compel a Man to enter into a Rule for more Lands or Tenements in the Declaration mentioned, than in his Possession.

Not to enter into a Rule for more Lands than in Possession.

In Ejectment, the Defendant moved to put off Trial till *Easter* Term; because his Witnesses being old could not travel. Trial put off. *Concess. per Cur'*, upon giving Security for the Mesne Profits.

Antient Demesne pleaded.

The Court was moved to plead Antient Demesne. *Concess. per Cur'*. And let the Party in Possession be made Defendant, and let the Plaintiff deliver a new Declaration, and the Defendant plead within two Days after.

Direction to lay the Demise in an Ejectment, to regain the Mesne Profits.

Per *North*, If the Plaintiff, who really hath the Title, is cast at the first Trial, if he brings it about again, the best Way is to lay the Demise to the Plaintiff, to bear Date before the Demise of the former Action (if he had then any Title) and declare, That the Defendant the same Day *intravit & ejecit*; for by this Means, if he recover, he may bring an Action afterwards for the Mesne Profits, and recover from the Day of the Demise, whereby he will reimburse himself of what Mesne Profits were recovered against him on the former Trial, and to reimburse himself he hath no other Way but this.

To enlarge Demise.


Moved *per* Plaintiff to enlarge the Term of the Demise. *Per Cur'*, We cannot force the Defendant, unless he will consent: But made a Rule to shew Cause.

Let

Let the Mortgagor confess a Judgment Com. Pleas. in Ejectment of all the Lands, &c. inserted in the Mortgage (which Judgment Good Instru- may be defeazanced upon Performance of ctions upon a the Covenants of the Deed of Mortgage. Mortgage. Mortgage, by the same or such like Words as are contained in the Condition of the Bond for Performance of the same Covenants, &c.) and then upon Breach of Covenants you may take out Execution against the Lands——And the Judgment will be good against all Leases that bear Date after the Judgment, and also against all Tenants at Will: But against Tenants whose Leases bear Date before the Judgment, you cannot sue out the Execution; for such Lessees may be relieved by *Audita Querela*, as I suppose. *Sed quære de ceo*: However they have a good Action of *Trespass* for entring upon their Possessions; yet the Judgment will be of such Force against them, as that the Chancery upon setting forth such Judgments by Bill, will force such Prior Lessees to attorn to the Mortgagee, &c. This was a Serjeant's Advice.

If you move to plead Antient Demesne, Antient De- you must have an Affidavit that the Lands mesne plead- are so. ed.

In Ejectment, Lease, Entry and Ouster, is confessed *per* Landlord, who is admitted Defendant, and Judgment is confessed; moved, That Execution may not go against the Tenants that had no Declarations delivered them, and Day given to shew Cause. *Mich. 1689.* Lord Chief Justice

Com. Pleas. *stice Pollexfen*; made absolute this Term:
 *Hill. 1689.*

The Plaintiff in Ejectment is a nominal Person and a Trustee for the Lessor, and his Release is a Contempt.

When to
plead, and an
Appearance
given.

Per *North*, If the Tenant in Possession give a Warrant of Attorney to appear in Ejectment, he cannot afterwards take Advantage of the not Delivering of a Declaration——In Judgment against the casual Ejector, where the Tenant being gone away out of the House, locked the Door, and kept the Key. *Per Cur'*, In this Case you should have sealed a real Lease of Ejectment at the House. But upon Affidavit of serving the Tenant with a Declaration the first Day of Term, *Judic nisi placitaverit*. Per *Robinson*, (in Ejectment in *London* or *Middlesex*.)

Several De-
clarations.

In Ejectment moved to put several Declarations in one, because all concerned the same Title. *N.B.* In these the Lessors were several Persons. *Per Cur'*, Where there are several Lessors, you cannot join them; but if in several Declarations the Lessor and the Plaintiff be the same, and the Lands of the same Title, the Court will upon Motion, order them to put all the Defendants in one Declaration.

No Entrance
in Narr'.

Dimississet tenementa 29 die Septemb' habend' a 29 predict', no Day laid of the Plaintiff's Entrance. Referred to be examined. *Adam's Case. 2 Cro. 96.*

In *Ejectione firmæ*: *Cornelius* is writ in the Roll and the Record, instead of *John*; and moved to amend, but denied. *Hill. 1 W. & M. Pollexfen, 1690.* Tho'


Tho' a Declaration in Ejectment is delivered, yet upon Payment of the Rent and Costs, the Court, or a Judge at his Chambers, will discharge the Proceed-
 Com. Pleas.
 Ejectment
 for non Pay-
 ment of Rent
 ings.

Error.

He that brings a Writ of Error, to reverse a Judgment given in a superior Court, by the *Stat. 3 Jac. 1. c. 8.* in all Cases after a Verdict, and in all Actions of Debt by Confession or Default; and in all Actions of Debt upon a Bond, where the Condition is for Payment of Money only, must put in good Sureties to prosecute his Writ of Error with Effect, and pay the Debt and Damages to be recovered, if Judgment shall be affirmed, and such Bail must be put in within four Days after the Writ of Error is allowed.

If you do not approve of the Bail you may except against them, and oblige them to justify or add better Bail.

But if you bring a Writ of Error upon a Judgment by Inquiry, the Plaintiff in Error in such Case, finds no Bail, and the Defendant in Error must, at the Return of the Writ of Error, get a Rule from the Clerk of the Errors, for the Prosecutor of the Writ of Error, to cause the Record to be transcribed into the *King's Bench* within eight Days after Notice. Which Rule being served on him, or his Attorney,

Com. Pleas.  ney, if the Record be not transcribed at the eight Days End, the Clerk of the Errors signs you a *Non pros'*, but gives no Costs, and then you may take Execution on your Judgment: But if the Record be transcribed, then you employ a *King's Bench* Man to look after it there; and if the Judgment be affirmed, you have Execution out of the Court, and your Increase of Costs taxed there.

No Costs:

No Bail to be put in to a Writ of Error upon a Judgment in Debt for Performance of Covenants, or upon a Bail-Bond.

If an Action of Debt be brought upon a Bond to perform Covenants, and Judgment goes by Default without craving Oyer of the Condition: Upon a Writ of Error the Plaintiff in Error must put in Bail, because it does not appear to the Court upon the Record, that the Condition was for Performance of Covenants.

An Executor puts in no Bail on a Writ of Error, neither pays Costs upon the Judgment being affirmed.

Error on a Judgment, and an Action of Debt pending the Error brought.

If a Writ of Error brought upon a Judgment which requires Bail, and Bail be put in to the Writ of Error and the Defendant in the Writ of Error, (who is the Plaintiff in the Judgment) brings an Action of Debt upon the Judgment, pending the Writ of Error, (as by the settled Practice now he may do) no Bail is required to the Action of Debt, but only an Appearance.

If a Writ of Error is brought upon a Judgment that does not require Bail, nor no Bail is put in above in the Action, the Plaintiff

Plaintiff in the Judgment may bring his Action and hold the Defendant to Bail, and that Action must abide the Event of the Writ of Error. Com. Pleas.

No Writ of Error can be brought to reverse a Judgment by Default, before a Writ of Enquiry is executed, for the Default is but an Interlocutory Judgment, but the Verdict of the Jury, and Judgment of the Court, is the final Judgment on which the Writ must be brought.

In a Writ of Error, in Ejectment, no other Bail is required than the Plaintiff's own Recognizance, for it is only to answer the Damage, and the mesne Profits (the same Practice is in the *King's Bench*). But this was adjudged in the Common Pleas after several Motions for other Bail, and upon reading the Statutes, whereby Bail is given; *Per Lord North*.

Upon a Motion, that a Writ of Error was brought in Ejectment in the Casual Ejector's Name, without his Knowledge, upon a Judgment against him; thereupon a *Superfedeas quia errone*, and let the Plaintiff in the Writ of Error shew Cause why he should not pay Costs. In Ejectment without the Knowledge of the Casual Ejector.

N B. The Casual Ejector made an Affidavit, That he knew nothing of the Writ of Error.

A Writ of Error is a *Superfedeas* to an Execution (not begun) as soon as allowed without Notice. *Salk.* 321.

Against

Com. Pleas.



Of Executors and Administrators.

Executors and Administrators may appear and plead to a *Scire Fieri* and *Inquir'*. Against an Executor or Administrator, after you have a Judgment by Default or Confession, you can have no *Fi' Fa. de bonis propriis*, no Execution of his Body, till you have first had a *Fi' Fa' de bonis Testatoris*, returned *Nulla bona*; after which there must go out a Writ of *Sci Fa' & Inquir'*: To which Writ, after it is executed by taking an Inquisition of 10 l. Assets come to the Defendant's Hands, and concluding that the Defendant *devastavit* so much, he may appear and plead *plene Administravit, absque hoc quod devastavit*; which amounts to no more than a general *plene Administravit*, which he might have pleaded the first Time; by which Means 'tis very long e'er Plaintiffs in such Cases can recover, and very chargeable, and no Charge allowed after the *Scire Fieri & Inquir'*, whatever Proceedings happen to be subsequent: So that a Man had better lose a small Debt, than sue an Executor or Administrator who intends to be troublesome. This way of Proceeding hath not been long in Practice: The old Way was, That the Sheriff return a *Devastavit* on the *Fi' Fa'*, and the Plaintiff had forthwith Execution *de bonis propriis*; but the Sheriff being often sued for such Return, as false, this Way was thought on as better; because here the *Devastavit* being found by the Jury, no Action lies against them; besides the Defendant might traverse it, if he pleases. *Vide postea.*

Nota.

The old Way.

Execu-

Executor acknowledges Satisfaction on Com. Pleas. a Judgment in Court; the Secondary, after Sight of the *Probat*, entred Satisfaction. Satisfaction. acknowledged. on; but you must bring your Letters of Administration into Court.

An Executor is before Probate entituled to receive all Debts due to the Testator; and all Payments made to him are good and shall not be defeated, tho' he dies and never proves the Will. An Executor may commence an Action before Probate, but cannot declare; but an Administrator cannot bring an Action before Letters of Administration are granted to him.

Execution against Executors set aside, Execution and Restitution had; because the *Scire* set aside upon a *Sci' Fac'* *Fac'* against the Executors bore *Teste* before the Death of the Testator. Fi' Fa' and Inquir' how and where.

Upon a *Plene Administravit*, the Assets (if you go to Trial) must be proved and found before the Judge, upon Evidence; but if Judgment go by Default against an Executor or Administrator, then the Assets must be proved before, and found by a Jury upon a *Fi' Fa'*, *Sci' Fa'* and *Inquir'*, sued out after the Sheriff had returned *Nulla bona* upon a *Scire Fac' de bonis Testatoris*, which must in such a Case be sued out——Lord North said, That if Assets be found on a *Fieri Facias*, *Scire Facias* and *N. B. Inquir'*, the Sheriff must return a *Devastavit*, according to the Value of the Assets found: And if the Defendant traverses the *Devastavit*, the Issue is thereupon; and though the Question at the Trial is, Whether Assets, or no Assets? (If Assets be found, yet the Jury shall find it a *Devastavit*

Com. Pleas. *vastavit* :) And if the Sheriff return a *Devastavit sur Fieri Fac' de bonis Testatoris* (which he will do, if the Plaintiffs will give him Security to save him harmless for it) the Defendant cannot traverse it; but if the *Devastavit sur Inquisition* taken by a Jury on a *Fieri fac', Scire & Inquir'*, the Defendant may traverse the *Devastavit*; and the Reason is, because if the Sheriff himself makes a false Return, the Defendant may have his Action against him, which he cannot have upon a *Devastavit* returned *per Inquisition'*.

Upon *Plene Administravit* pleaded, the Plaintiff must prove his Debt, or else he will have but 1 *d.* Damage, though there be Assets, that all sperate Debts, mentioned in the Inventory, shall be accounted Assets, for it is as much as to say, they may be had for demanding, unless the Demand or Refusal be proved, therefore it is very proper (if no Inventory is exhibited) to cite the Executor or Administrator to exhibit an Inventory of the Deceased's Estate and Effects, that the Plaintiff may be informed of the Nature and Value thereof.

An Administrator in pleading Judgments with Penalties, ought to shew how much is due. And in pleading several Judgments, if any one be ill pleaded, or found fraudulent, the Plaintiff shall have Judgment.

Force the Sheriff to return a *Devastavit*.

Upon a *Plene Administravit* pleaded, if the Jury finds Assets, the Sheriff upon View of the Verdict (shewn to him by the

the Plaintiff) must, upon a *Fieri Facias* Com. Pleas. against the Defendant *de bonis Testatoris*, return a *Devastavit*: If he refuses, and will only return a *Nulla bona*, you may (as I suppose) move the Court, and they will force him to it; *tamen quere*.

Sed vide Pettifer's Case, 5 Co. 32. *Fieri Fac' de bonis Testatoris*, *Nulla bona* returned, then Special *Fieri Fac' de bonis Testatoris*, *Et si sibi constare poterit*, that the Executors have wasted them, then *de bonis propriis*: And it there seems, he ought not to make Inquiry by an Inquest.

And see *Siderfin*, 397. That the Practice is more nimble than by tedious Inquisitions, by bringing an Action in the *Debet & detinet* against an Executor, suggesting a *Devastavit* in the Declaration without any Return of the Sheriff.

If a Judgment in Debt is recovered against an Executor, who after the Judgment, wastes the Testator's Effects, to the Value of the Debt recovered, Debt lies against him in the *Debet* and *Detinet*. 1 *Saund.* 218, 219. Where Debt lies against an Executor in the Debt and Detinet.

If it be found that the Executors *veniderunt*, &c. they shall be charged *de bonis propriis*, although there is no *Devastavit*. 2 *Saund.* 403.

Execution on a *Fi' Fa'* in the Life of the Testator, gives a Right to the Executor. *Salk.* 12.



Exigents and Outlawries.

Superfeding. If you are suing the Defendant to Outlawry, (which you cannot by *Acetiams*) if he thinks fit, he may appear before he is returned outlawed, without Bail, be the Debt never so great, by superseding the Exigent, and paying the Plaintiff's Costs; and after he is returned outlawed, and the Exigent filed, in case the Proceeding be by *Clm' fregit* (as the usual Course is) he may reverse the Outlawry without Bail, he paying the Plaintiff's Costs as aforesaid, and his own Charges of the Reversal, which are above 40s. more; however, all Things considered, if the Defendant can be arrested, I take it to be the best Course to proceed by Arrest.

**Reversing
Outlawry.**

Outlawry after Judgment If you have Judgment against a Man that lurks in several Counties, in Regard you cannot have Execution against him in more Counties than one at one Time, the best Way is to sue him to Outlawry after Judgment, for then you may take out as many Writs of *Capias Utlagar'* against him as you please, and this for small Charge; besides it saves you the Charge of reviving the Judgment by *Scire Facias* after the Year. You have an *Exigent* immediately after the Return of the *Ca' Sa'*, without an *Al. Pluries* or Proclamation: And that is by suing out a *Ca' Sa'* for the Debt

Debt and Costs, and a *Non inventus* return. Com. Pleas.
 ed by the Sheriff, then an *Exigent* to be made by the *Exigenter* of the County where the Action was laid, and to be returned by the Sheriff: Then you may sue out *Cap' Utl'* into as many several Counties as you will, either in *England* or *Wales*, General or Special; and if he be taken he cannot be discharged without Satisfaction to the Plaintiff, or Pardon of the Outlawry; or Reversing the same by sufficient Error found.

If an Outlawry be reversed, the Plaintiff may declare upon a New Original, in another County than that where the Action was first laid. 3 *Lev.* 245.

Moved to discharge the Defendant, being a Feme Covert, and in Execucion upon Outlawry after Judgment. N. B. The Defendant was outlawed before Coverture: *Per North*, Help your self as you can; and *per tot' Cur'*, We will not discharge her till the Monies are paid. If a Feme covert be in Custody upon Outlawry before Judgment, and the Husband will appear for her, then the Feme shall be discharged; *per tot' Cur'*. See after.

Where the Defendant is outlawed before Judgment (if it be by Special Process) he must upon his Appearance put in Bail to the Value of the Debt and Damages, and not only for his Appearance to the Action, 31 *Eliz. quod nota. Per Lord North*: If Attornies would observe this, and sue Special Writs, it would prove a great Advantage to their Clients. cap. 3.

Com. Pleas.
 Appearance.
 Executors.

If the Defendant appear on the *Exigent*, he must pay all such Costs as the Prothonotary shall tax.—— If a Co-executor be outlawed, and one appear, you declare against both, and shall have Judgment against both; but Costs only against him that appeared.

Prisoners
 outlawed.

If you outlaw a Man that you know is a Prisoner in the *Fleet*, you shall have no Costs, and reverse the Outlawry at your own Charge; because, as the Practice is now, you should bring him to the Bar by *Habeas Corpus ad respondend'*, and charge him there by Prothonotary. Before a *Habeas Corpus ad respondend'* was given by Stat. if a Prisoner of the *Fleet* would not appear, you could not force him, and then you only was to outlaw him.

Ex' fa' against a Privileged Person.

Moved *pro Quer'* against the Sheriff of London, for not returning an Exigent against the Defendant.—— Counsel *pro Vic'* insisted, that the Defendant at the Time of the Return of the *Ex' fa'* was privileged by the King, and had his Privilege allowed and filed in their Office, and that they could not now return it, tho' the Privilege was now out, without Breach of Privilege, because the *Ex' fa'* was returnable in Privilege-time; and must be returned as of that Time: *Quer'*, That is now no Matter; and *per Cur'*, Let the Sheriff make a Return by *Wednesday* next, on Pain of 100*l*.

Appearance
 on Outlaw-
 ries.

Where more than one are outlawed in one Writ, if an Attorney reverse it not

as to all, but as to one, he shall be forced to appear but for one. Com. Pleas.

Where the Defendant is well known, and lives near the Plaintiff, and is sufficient, and may be arrested; if the Plaintiff outlaw him, he shall upon Complaint by Motion reverse at his own Charge; *Quære postea.* Reverse at Plaintiff's Charge.

If the Plaintiff sues in an Inferior Court, and after outlaws the Defendant for the same Cause of Action, and the Defendant is thereon taken, he shall not pay the Costs of the Inferior Court. Not pay Costs of an Inferior Court.

A Feme-covert taken upon an *Utl*, shall be discharged upon bringing a *Supersedeas*, and entring only an Appearance. Femec overt.

Assumpsit upon a Bill of Exchange, the Defendant pleads Outlawry in Bar, and good; because the Debt is certain, although to be recovered in Damages; and it is forfeitable by the Outlawry, as well as Debt upon a Simple Contract. *3 Lev. 29.* But where there is no Debt, nor any Thing to be forfeited, but Damages only to be recovered, as in *Trespas*, *Trover*, &c. there it must be pleaded in Abatement only. Pleading Outlawry.

Moved by Serjeant *Levinz*, That the Outlawry might be reversed at the Plaintiff's Charge, the Defendant being every Day in the Plaintiff's Company, they being both Captains; but denied, and ordered an Action of the Case to be brought against the Plaintiff, if the Defendant thought convenient. An Action of the Case ordered for Outlawing a Person well known.

Com. Pleas.

Special Cap.
Utl.

After you have taken out a Special *Capias Utl*^p, for which you pay with Seal 2 s. 7. d. and for Warrant thereon 5 s. and the Sheriff for taking an Inquisition of the Goods, Lands and Chattels of the Defendants, 1 l. 13 s. the Inquisition is to be returned into the *Exchequer*.

Upon a *Superfedeas* to an *Exigent*, your Appearance is but at the Return of the *Exigent*; and you are not bound to receive a Declaration before then. *M. 7 W. 3. Normanfell versus Biggerstaff.*

To an Action in *B. R.* on a promissory Note, the Defendant pleaded the Plaintiff was outlawed in *B. C.* the Plaintiff replies, *nul tiel Record*, and a Rule was given to bring the Record into Court; in the mean time the Plaintiff reversed the Outlawry, in this Manner: (That Debt being satisfied,) Affidavit was made that the Debt was paid, and upon the Plaintiff's Attorney in the Outlawry consenting before a Common Pleas Judge, one of the Prothonotaries Clerks, by Order of the said Judge, entred up the Reversal of the Outlawry; and the Plaintiff obtained his Judgment.

Habeas Corpus.

Habeas Corpus and *Distingas sur Capi*, on an Attachment.

ALL Writs of *Habeas Corpus* and *Distingas* after *Capi* returned on Attachment of Privilege, are made by us, and signed by the Prothonotary, who signed the Attachment; but all such Writs upon other

other Proceſſs are made and ſigned by the Com. Pleas. Filacer, who made out the Cap^r.

When a Cauſe is removed by *Habeas Corpus*, out of an Inferior Court, at the Return of the *Habeas Corpus*, the Plaintiff muſt give a Rule for the Defendant to put in Special Bail within four Days after Notice; which if the Defendant fails to do, having been ſerved with the Rule, you may have a *Procedendo*. If Bail be put in, the Plaintiff hath 20 Days to except againſt it if he ſee Cauſe, within which Time he muſt have Notice of it; and if he makes no Exception within the 20 Days End, it ſtands abſolutely, and the Plaintiff muſt file his Original, and declare within two Terms after the Bail put in, or elſe the Bail is not liable: If the Plaintiff except againſt the Bail, he muſt have a Rule granted and ſigned by the Judge, who took the Bail to ſerve the Defendant's Attorney with, that unleſs better Bail be put in by a Day, the Plaintiff ſhall have a *Procedendo*. To remove Cauſes before Judgment out of Inferior Courts not of Record, you have theſe three Writs made by the Curſitor; A *Recordare* to remove the Plaint out of the County-Court; A *Pone* to remove a Cauſe which is there by *Juſtices*; and an *Accedas* to remove a Plaint out of the Hundred-Court; and each Writ expreſſeth which Party 'tis that brings it, whether Plaintiff or Defendant. The *Recordare* and *Accedas* in all Actions but Replevin, are to be filed by the Prothonotary; and in Replevin with the Filacer,

Proceedings after Removal per *Hab^r Corp^r*. *Procedendo*; vide Attachment.

Cauſes removed out of the County or Hundred-Court.

Com. Pleas. when the Plaintiff brings the Writ, which is seldom; but in Replevin he must see if the Defendant hath appeared; if not, he must sue out a *Pone* from the Filacer, and with the Sheriff return Issues: Then you have a *Distringas*, and so *Alias & Pluries Distringas ad infinit'*, till he does appear; and after Appearance, you declare and proceed as in Causes after Arrest. If the Defendant brings the Writ in any other Action but Replevin, he must be sure to file it, and enter his Appearance with the Prothonotary with all possible Speed, to prevent a *Procedendo*. After the Writ filed, and Appearance entred, you give a Rule with the Filacer for the Plaintiff to declare; and if he refuses when the Rule is out, you enter *Non pros'*.

See Statute
about *Non
pros'*. & Stat.
17 Car. 2.
cap. 7.

Mr. *Townsend* was of Opinion, No Costs ought to be given on such *Non pros'*; but Sir *Thomas Robinson* did once tax me 40 s. 8 d. on one, though I question whether allowable by the Statute; I think in King *Charles* the second's Reign. In Replevin, if the Plaintiff, (*viz.*) he whose Goods were taken, bring the Writ, and after filing it with the Filacer, he takes out a *Pone* as above, to force the Avowant to appear, and after Appearance declares; then the other avows, &c. proceeding till Issue or Demurrer; but if the Avowant, (*viz.*) he who took the Cattel, bring the Writ, in Case, after it is filed with the Filacer, and the Rule to declare entred with him be out, no Declaration comes in, the Avowant has a *Return'*

turn' *Habend'* made by the Filacer: The Com. Pleas. Proceedings whereof you will find in the *Compleat Attorney*.

To remove after Judgment out of Inferior Courts not of Record, you must bring a Writ of false Judgment; and when 'tis returned, file it with the Prothonotary, and enter the same with the Errors assigned on a Roll; then deliver a Copy to the Attorney on the other Side, who will be sure to appear thereto, in order to obtain the Fruits of his Judgment: Then he that had the Judgment below (but is the Defendant in this Writ) must get a Serjeant to move on the Record, maintaining the Judgment against the Errors assigned, and praying a Writ *de Executione Judicii*; which if granted, and then the Judgment affirmed, yet he recovers no Costs, nor doth the Plaintiff in the Writ recover any, if he appears to reverse the Judgment. I know not what Fees Sheriffs and County-Clerks usually take for Removals on *Refalo'*, *Pone*, and Writs of False Judgment; but I have paid upon Removal by *Accedas* out of an Hundred-Court, as follows, (*viz.*) To the Cursitor *pro Accedas* in Replevin, 2 s. 6 d. in all other Actions 9 s. 2 d. for the Sheriff's Warrant thereon to the Steward 2 s. paid the Steward for returning the Plaint 6 s. 8 d. four free Suitors 1 s. apiece, to the Bailiff 2 s. and to the Sheriff for returning the Writ 2 s. the like Fees on a Writ of False Judgment.

Judgments removed out of the County or Hundred Court.

Charge of the Removal is 1 l. 1 s. 8 d.

Com. Pleas.

Where the Body is not in Prison by Supposition of Law, an *Habeas Corpus* is not the proper Means to remove the Cause, but a *Certiorari*.

Hab' Corp' ad satisfac' a- An *Habeas Corpus ad satisfaciend'* (against a Man already in the *Fleet*) deliver'd to the Warden of the *Fleet*, is sufficient to charge him in Execution.

Upon a *Habeas Corpus* out of the Common Pleas; if the Process of the King's Bench be returned; the Common Pleas cannot take Bail to the Action in the King's Bench; but they must bring an *Habeas Corpus* out of the King's Bench, and thereupon take Bail in the King's Bench.

No Writ to remove a Suit commenced in an inferior Court shall be obeyed, unless delivered to the Steward of the Court before Issue or Demurrer joined, so as the said Issue or Demurrer be not joined within Six Weeks after the Arrest or Appearance of the Defendant. 21 *Jac. I. c. 23*.

A Suit shall never be removed again, after a *Procedendo* allowed.

A Suit where the Demand does not exceed forty Shillings, and in the Marshal's Court 5 *l.* nor where the Freehold, Inheritance, Title of Land, Lease or Rent is concerned, shall not be removed.



Infant.

Where an Infant is to demand or gain, Infant admitted.
 he may sue by Guardian or *Prochein Amie*;

but where he is to defend a real or personal Action, it ought to be always by Guardian; and to either he may be admitted by the Court in Term-Time, or by any Judge at his Chambers, then, or in the Vacation (the Infant being present) else by Commissioners, by Virtue of a *Dedimus* from the Cursitor, which costs

you 17 s. 6 d. which *Dedimus* when returned must be filed with the Cursitor, who makes you a *Mittimus* and Transcript thereof, which you enter on the Roll. Costs of Admission.

Also it is said, he may be admitted by a Judge at the Assizes.

It is Time enough to admit Guardian Admitted before Declaration delivered.
 or *Prochein Amie* at any Time before Declaration be delivered.

If an Infant give a Warrant of Attorney to confess Judgment, though it be enter'd up after he is at Age, it is void.

An Infant shall not be bound for any Thing, but for his necessary Meat, Drink, Apparel and Learning; neither shall his Covenant for Binding himself an Apprentice, oblige him, unless by special Custom. Cro. Jac. 494.

Where Debt or Case is brought against an Infant for Necessaries: *Infra Etat'* is a Plea by Infant.
 good Plea, to which the Plaintiff must re-

ply the Goods sold were necessary. *gradu defendantis*

Com. Pleas. *fendentis requirente*, and upon the Trial the Question will be, Whether the Goods sold, were for the Defendant's necessary Use, or not?

If one under Age enter into a Bond, and says, he is of full Age, tho' he may avoid it by his Plea of *Infra etat'*, yet you may prefer an Indictment against him in the Crown-Office for a Cheat.

An Infant may plead the General Issue, *Non Assumpsit*, and give his Infancy in Evidence at the Trial. Although an Infant cannot be sued for any Thing, but Necessaries, yet a Commission of Bankrupt may be sued out against an Infant, he having committed an Act of Bankruptcy.

If an Infant under Age borrows Money, and afterwards at full Age, promises to pay it, it is a good Consideration, and he will be charged.

Breve de Inquirendo.

In Causes in *London* or *Middlesex*.

Notice.

If the Defendant lives not forty Miles Distance, Eight Days Notice to execute an Inquiry, sufficient; but if more, it must be fourteen Days Notice.

By Rule of Court, Hill. 6 Georgii.

Where the Plaintiff concludes *ad Patriam*, and gives Notice of Trial on the Back

Back of his Pleading; if the Defendant Com. Pleas.
 does not join Issue on such Plea, before
 the Rule is out; in such Case, after
 Judgment obtained, the Defendant's At-
 torney shall accept of Notice of executing
 a Writ of Inquiry from the Time that
 Notice of Trial was given.

An Inquiry executed without Notice *Sur breve de*
 to the Defendant, the Court, on an Af- *Inquir', No-*
 fidavit of no Notice, will set aside the In- *tice to be*
 quiry. *given.*

An Inquiry was executed by Surprise Upon Sur-
 contrary to Promise. *Per Cur'*; All Pro- prize.
 ceedings shall be stopt, and Notice to be
 given of this Motion. *Mich. 1679.*

To stay signing Judgment on an Inqui-
 ry. *Per Cur' concess.* till the Plaintiff moves
 to the contrary.

Where excessive Damages are given upon a
Writ of Inquiry, the Court has, upon Affidavit
and good Cause shewn, granted another Writ;
so likewise, where the Damages are too small.

To set aside Judgment upon an Inquiry Plea tendred
 which was executed after that the Defen-
 dant had delivered his Plea. Ordered to
 shew Cause why the Defendant should
 not be admitted to plead.

To set aside an Inquiry, because no De- No Declara-
 claration was delivered to the Defendant tion delive-
 after his Appearance, referred to be exa- red.
 mined.

Vide postea Trespass, after Agreement
 Inquiry executed.

To stay filing an Inquiry, because the To stop an
 Declaration was delivered with Blanks, Inquiry upon
 and Surprize, and
blank Narr'.

Com. Pleas. and was never filled up, and the Inquiry executed upon Surprize, whilst the Cause was under a Reference, referred to be examined, and all Proceedings to stay till moved by the Plaintiff. *Hobs versus Little, per Wright prox' Amic'.*

Second Writ of Inquiry. A Second Writ of Inquiry cannot be executed in the same Cause without Leave of the Court first had; *per Cur'.*

No Challenge to a Jury, &c. Motion to set aside an Inquiry. *Per Cur'.* No Challenge can be made to the Jury impanelled on a Writ of Inquiry.

200 l. Damages sworn, and but 100 l. found. Where a Writ of Inquiry in an Action of Waste duly executed, and 200 l. Damages is sworn unto, and the Jury found but 100 l. and so Judgment treble Value 300 l. Moved to set it aside, and denied *per tot' Cur'.* *Mich. 1689.* Lord Chief Justice Pollexfen.

How to execute a Writ of Inquiry. When your Writ of Inquiry is made, you must go to the Prothonotary to sign it, for which you pay 2 s. and at the Seal 7 d. and then carry it to the Sheriff two Days before you intend to execute it, and indorse the Place on the Writ, where you have given Notice for the Execution thereof, and he will cause a Jury to be returned, and all their Fees in *Middlesex* comes to 1 l. 10 s. 4 d. then Two or Three Days after call for the Return, and after you have got it, carry the Inquisition and Writ of Inquiry to the Stamp-Office, and stamp the Inquisition with a double Half-Crown, and Four Days after the Return you may carry it to the Prothonotary to tax the Costs, and sign Judgment; for which

which you pay 5 s. 4 d. Then carry it to the Clerk of the Judgments, for him to enter up the final Judgment; for which you pay him 2 s. but you make out what Execution you please your self, and not him.

Note, That in your Notice, you must express your Place and Time certain, or else it is no good Notice, and it must be as long as Notice of Trials are. No Costs for not executing a Writ of Inquiry ordered to be before the Lord Chief Justice.

Trin. 1690. Pollexfen.

Judic' & Executio.

When a Judgment is above a Year and a Day old, and you would proceed thereon, you have two Ways; an Action, and a *Sci' fa'*: If the Debt be small, the former I take to be the best Course; for there you recover Costs, in the other none. And it is a general Rule, in all Cases on *Sci' fa'* you recover no Costs, be the Pleadings and Proceedings thereon never so long. If you go by *Scire facias*, and the Defendant in Judgment be living, notwithstanding the Plaintiff be dead, one *Nichil* serves Turn; if the Defendant be dead, there must be two *Nichils* against his Executor or Administrator; but whether living or dead, One *Scire feci* return'd serves; and an Entry must be made of the

Com. Pleas.

What Notice to give.

To proceed on old Judgments by Action, or *Sci' fa'*.

Writ

Com. Pleas. Writ and Returns on the Roll, concluding with an *Habeat Execution*: But this Entry is not signed with the Prothonotary, only he has 2 s. for Entering it. If the Judgment have lain above Ten Years before you can have a *Scire facias*, you must get a Rule from the Secondary, who will grant it you of Course, without moving the Court or Treasury.

If above Ten Years.

Satisfaction of Judgments on *Postea*'s, Demurrers, *Inquir*', &c. when to be entred.

Satisfaction may be acknowledged, not only in Court in Term-Time, but at a Judge's Chamber in Vacation; as also all Judgments on *Postea*'s, Demurrers, Writs of Inquiry, *Elegit*, Partition, &c. as also Return of Writs of *Seisin in Dower and Waste*, &c. are all entred on the Roll by the Clerk of the Judgments.

Executions of several Defendants must be against all.

Execution must be against all that are in the Record; if there be three Defendants, it cannot be against One or Two, but against all.

Goods restored, levied on a *Fi' fa'* after *Superfedeas*, and an Attachment against the Sheriff.

On Affidavit, That Goods were levied upon a *Fieri fac'*, and sold after a *Superfedeas* brought, and Notice given thereof. Motion to pray an Attachment against the Sheriff, and Restitution of the Goods. *Per Cur'*, An Attachment granted, if not Restitution within Three Weeks.

N. B. A Horse that was levied upon this *Fieri facias*, died after the *Superfedeas* brought. 'And *per Cur'*, The Plaintiff must make Restitution of him in Value; and the Plaintiff could not have any Fees or Charge allowed after Notice of the *Superfedeas*. *Mich. 1679.*

To

To set aside a Judgment, because no Copy of the Issue was deliver'd him; *similit'*, where Copy of Issue was delivered, but no Notice of Trial; *similit'*, where the Plaintiff tried the Cause, where the Defendant demurs to the Declaration:

In all these Cases the Court orders a Reference to the Prothonotary, and in the mean Time all Things to be *in Statu quo*.

Execution set aside, and Writ of Resti-
tution awarded, because a *Test' Fieri Fac'* was sued out against the Defendant, before any *Fieri fac'* was returned with *Nulla bona* in the proper County.

Upon an Execution, the Landlord must be paid One Year's Rent, before the Removal of the Goods off the Premisses.
8 *Anne C. 7.*

A Writ of Execution shall not bind the Property of any Goods until the Time the same is delivered to the Sheriff, &c. who, on Receipt thereof, shall endorse the Day of the Month when he received it.
29 *Car. 2. cap. 3.*

Upon a *Fi' Fa'* the Sheriff shall have his Fees according to the Sum levied.

A Seizure of Goods in Execution de- vests the Defendant's Property therein, and discharges his Person. *Salk. 323.*

A Warrant of Attorney to confess a Judgment, is good but for a Year next ensuing the Date thereof; and if you enter Judgment on such a Warrant (after the Year expired) without first moving the Court, and a Rule thereupon, the Court will set the Judgment aside.

Com. Pleas. Where a *Venire fac'* is returnable the last
 Execution when had. Return within the Term, you cannot have
 Execution (on a Verdict) the same Term,
 N. B.

To supersede an Execution against one, where it should have been against Two. *Per Defendantem* to supersede an Execution irregularly taken out against one of the Defendants alone, where the Judgment was jointly against Two; *Per Robinson*, The Plaintiff must make his *Ca' Sa'* against both, but may thereon take which he will: The like of *Test' Ca' Sa'*.

Arbitrament. Judgment staid, because Plaintiff went to Trial whilst the Cause was under Arbitrament.

Judgment, how related. A Judgment in the Common Pleas shall relate to the Effoin-Day of the Term. *Cro. Car. 102. pl. 2.* But in the King's Bench only to the First Day of the Term.

Entry *Judic'* on the Roll. *Per Cur'*, Upon *Hab' fac' poss'* entred on the Roll, you need no *Scire fac'* to revive it; and *simile* on a *Ca' sa'*, but then upon the Roll you must continue it from Term to Term. *Vide M. D. Precedents dec'* in Entry *Moyle 20.*

Part by *Fieri fac'* in a *Ca' sa'*. If you levy Part of a Debt on a *Fieri fac'*, you must make an Entry of the *Fieri Fac'*, and the Return thereof, and award a *Ca' sa'* for the Residue.

Satisfaction. *Per North*, You may bring a *Scire facias* to make the Plaintiff acknowledge Satisfaction upon Judgment when the Money is paid. *Per Robinson*, upon a Suggestion in the Body of the *Scire fac'* that the Money is paid, *tho' Townsend hath denied it.*

In Proceeding on a Writ of False Judg. Com. Pleas. ment, when the Exceptions are entred upon the Roll, you may have the Record read, and the Serjeant may be heard to it, when he will, for it is never set down in the Court-Book. See before Title *Habeas Corpus*.

To move to sign Judgment must be in Motion to the Court, and not in the Treasury. *Trin* sign Judg-ment, where to be.
1690. 7 W. & M. Lord Pollexfen.

Original.

Your new Original to warrant Judg-When to file ment comes in soon enough, so it be re-new Original- turnable any Time before Judgment sign- nal. ed, and it is best to have it of the same Term, if your Impar lance be not entred.

The Cursitor will make your Original Time to be- returnable the First, or any other Return speak your of the Term before you bespeak it, so you Originals. bring your Note to him on or before the Seventh Day within the subsequent Term: For Instance; If you bring your Note on or before the 29th of *October*, he will make it *Craſtin' Trin'*, or any other Return that Term; but he cannot go further than the preceding Term, without Warrant from the Master of the Rolls, which is often had upon a Petition to him; and Affidavit of mislaying your Instructions, or you could not get the Specialty to perfect the *Alias dic'*, or other reasonable Excuse, and for the Warrant you pay 5s. 6d.

Com. Pleas.

Originals to
keep Debits
within Sta-
tute.

If the Defendant pleads the Statute of Limitations, and you have within Six Years sued him to an Outlawry in a *Clausum fregit*, or have taken out a *Clausum fregit* or *Capias* against him: Such Proceedings will do you no Good against the Plea; for a *Clausum fregit* is no Original to your Action, but your Original ought to be Special, such as agrees with your Declaration: Therefore, besides your Process to Outlawry, at such Time as you begin the same, it is best likewise to file a new Original. *Sed vide 2 Vent. 258. and 1 Lut. 260.*

A standing
Rule, when
Originals,
when not.

Where the Appearance of the Defendant is by Compulsion and Process of Law, there must be an Original sued out by the Plaintiff; but where a Judgment and a Release of Error is given by the Defendant, there needs no Original to warrant the Judgment: Lord North, and Lord Chancellor agreed thereto. *Per tot' Cur'*. So is the Practice of the King's Bench: Lord North spoke this in Court, that the Attornies might take Notice of it. — 1679.

Placita.

Privilege.

An Attorney or other privileged Person shall not be allowed his Privilege though pleaded when he is joined with another Person in an Action in this Court, or the King's Bench.

The Defendant got a Rule in the Treas. Com. Pleas. fury to amend his Plea, and thereupon pleaded a new Plea, which the Court would not allow; for a Rule is no Authority to plead *de novo*, 28 Octob. 1679. But because thereupon a Title was in Question, the Court gave the Defendant Leave to plead a Plea; *N. B.*

To amend Plea, and plead de novo not good, except Title be in Question.

The Defendant had paid the Money For Defendant upon the Judgment, (as appears by Affidavit;) but the Plaintiff in his Life-time to a *Scire Fac.* had not entred Satisfaction on Record thereof. His Executors sue out a *Scire Facias* against the Defendant; the Sheriff did not warn the Defendant (who thereupon would have pleaded his Payment) and so Judgment by Default, and to stay all Proceedings, and the Plaintiff to shew Cause why the Judgment should not be set aside. *Vide* the late Act for Amendment of the Law.

Moved to alter the Plea, which being Plea altered. entred, and the Roll being brought into Court; *per Cur'*, We cannot help you. *Vide ante Tit. Declarations.*

The Prothonotary must receive a Plea, Before Judgment to be left in the Office (though the ment signed. Rule out) at any Time before Judgment signed.

No Serjeant's Hand is necessary to a Where Ser-General *Deins age, per minas, son assault demesn', plene Administravit, dures, per* is requisite. Wyrley: Robinson *econtra quoad Deins age.*

After a *Respondeat Ouster* upon a Rule *Respondeat Ouster.* given, the Defendant must plead forthwith,

Com. Pleas. or else the Prothonotary will sign Judgment. *Quære*, What Time is allowed by the Rule.

Abatement. The Defendant after a General Imparlance pleaded in Abatement of the Writ, and thereto the Plaintiff demurred. Lord *North*; When you plead in Abatement of the Writ, *Judgment quod Respondeat ouster*.

Court's Leave to plead to Original Action. Upon Suit on a Bail-Bond: If you have the Court's Leave to plead in Chief, (*i. e.*) to the principal Action, you must plead no Dilatory Plea; but upon paying Costs, in such Case the Court gave leave to plead a Popish Recusant.

Privilege of Peerage. In Case of a Peer, unless he be Party to the Suit, (and then he must demand it) Privilege of his Peerage cannot be taken Notice of by the Judges.

Tenant of a Peer brings his Writ to the Assizes. If the Tenant of a Peer be Party to a Suit, the Peer must bring his Writ of *Parliament* to the Assizes or Place of Trial. *Per Cur'*, It was so held in the Case of my Lord *Huntington, & al'*.

Prohibition.

To have Prohibition, how to move. If you move for a Prohibition, because the Spiritual Court will not allow your Plea, you must bring into Court a Copy of the Libel, and of the Plea you offered to plead there, and your Suggestion.



Prisoners.

A Prisoner being brought by the War- A Prisoner
den of the *Fleet* to the Bar by *Habeas Cor-* appears in
pus, and being asked what Attorney should *propria per-*
appear for him to 12 *Narr's* against him, *sona.*
said, *He appeared in Person*; and it was
recorded: And *per Cur'* a Rule was made
nisi pl'taverit in eight Days, *Judicium per*
defalt'; and the Court said, the Plaintiff
might then charge him with Executions.

If a Prisoner, discharged by the Act, Prisoner dis-
be arrested for any Action whereof he charged *per*
was discharged, he shall not be forced to Act, shall on-
put in Bail; but may summon the Plain- ly appear.
tiff before a Judge at his Chamber, who
will upon Sight of the Duplicate order
an Appearance to be taken, and discharge
the Prisoner out of Custody, and there-
fore you need not move the Court.

If a Man renders himself in Discharge Surrender in
of his Bail, and Time being given to discharge of
the Plaintiff to pray him in Execution; Bail.
if the Prisoner, before he is prayed in
Execution. removes himself to the *King's*
Bench, he shall not be discharged in this
Court till he is prayed in Execution.
N. B. The Plaintiff may have an *Habeas*
Corpus to the *King's Bench*, to bring him
to the Bar of this Court, and there he
may be prayed in Execution.

Quare Impedit.

Com. Pleas. Moved to charge Prisoners in the *Fleet* (committed by the Court, and ordered to be prosecuted *per* Plaintiffs in the *King's Bench* on a Riot) with an Action for taking the Plaintiff's Goods and denied. *Mich. 1689. Pollexfen.*

Quare Impedit.

Enter a Discontinuance where all are agreed.

IN *Quare Impedit*, where all Parties were agreed, the Court advised the Plaintiff to enter a Discontinuance without Costs; and not that the Defendant should enter a *Non pros'*, because that would disparage the Plaintiff's Title.

Costs where allowed.

No Costs on a *Non pros'* in *Quare Impedit*; but Costs on a Discontinuance therein which was queried *per* Lord North, and *Q. de ceo* — 1678.

How Jury is to find on a *Quare impedit*.

On a *Quare Impedit* tried at Bar: *N. B.* If the Jury find for the Plaintiff, they must also find of whom, and upon whose Presentation the Church is full, and how long since it became void; because in the Judgment the Plaintiff shall recover Damages half the Value of Half a Year. *Vide 2d. Judgment 183. 17.*

Two Rules before you sign Judgment.

There must be two Rules in a *Quare Impedit* to plead, as I think, both by Motion of Court, before you can sign Judgment.

Nonfuit in a *Quare Impedit* is fatal.

Sum' die Sabati, good.

In a *Quare Impedit*, the Incumbent was told (by an Officer) as he was coming out of the Church on a *Sunday*, That he

he had the Sheriff's Warrant to summon Com. Pleas. him to appear on a *Quare Impedit*: And moved *per Plaintiff*, That if this Return should be avoided, then they must have a New Writ; and if it should not be within six Months, then he should lose the Action.

Ordered *per Cur'* that the Summons should stand.

Record.

IF any Executor or Administrator plead Judgments obtained against him or his Testator, or Intestate, in any other Court of Record, and the Plaintiff reply *Nul tiel Record*; the Defendant, to prove his Issue, before the next Term must sue out a *Certiorari* from the Cursitor; and when the Record is returned thereon, must bring such Return to the Cursitor, who files it, and helps you to a *Mittimus* and Transcript thereof, to send the Record into the *Common Pleas*. Records certified from other Courts.

Per Lord North, If the Defendant enter a *Ne recipiatur* of the Record at the Assizes, he shall have Costs for his Attendance. *Quære*, If so in *London* and *Middlesex*. *Ne recipiatur.*

If a Cause be carried down by *Proviso*, *Per Proviso*. the Plaintiff cannot withdraw the Record, because in such Case the Record put in by him, is afterwards the Record of the Defendant.

If

Com. Pleas. If a Writ of Error (*in Banco Regis*) upon a Record in *Communi Banco* be quashed, Removing a Record on a Writ of Error. the *Mittitur* must be struck out of the Record by Rule of Court, upon Motion. *Per' Cur'*, if the Record be removed, then if you have need of the Roll, you must bring a Writ of Error upon the Record *quod coram nobis residet*. Style's Rep. 470. 3, &c.

Recovery and Fines.

The Writ of *Seisin*, *Entry* and *Summons*,
See Title *Sheriffs*.

Appearance
of Tenant
and Vouchee

If in your Recovery the Tenant at first appear by Attorney, although the Vouchee appears by Summons, yet there must not be *Alias prout patet*. N. B. The Difference when the Tenant appears first in Person, and then, at the Return of the Summons, appears by Warrant of Attorney; and when the Tenant appears at first by an Attorney. *Bagnal versus Jones, Mich. 30 Car. 2. Rot. 257.*

Dedimus to
appear.

Dedimus out of Chancery, Warrants of Attorney for the Tenants or Vouchees, are either by Warrant, or taken before a Judge. Where ever there is a Warrant of Attorney, in a Recovery by *Dedimus*, there must be a *Mittimus* and Transcript; because the *Dedimus potestatem de Warr' Attorn' recipiend'* is returnable into the Chancery, therefore not cognizable by the Justices

Justices of the Common Pleas. *Compleat Com. Pleas.*
Attorn. 144.

Several Titles ought not to be joined in one Fine. *Per tot' Cur'.* Several Titles.

A Fine sued out by Fraud: Here it was said, That Interrogatories can be admitted only as to the Misdemeanor, and that as to the Fine they must bring a Writ of Error.

A Motion to mend a Fine where the Chirographer had made *Heredibus ipsius* the Conuzor, where it was in the *Precipe* and Concord taken before the Commissioners, *Heredibus suis*, and denied; *Mich. 1 W. & M. Pollexfen.* Fine to be amended.

If one of the Parties who is to acknowledge a Fine, lives in the Country, and the other in Town, you may sue out a *Dedimus*, naming Commissioners, as well in the Town as Country, who may by Virtue of that *Dedimus*, take such Fine which will save you great Expence, for otherwise the Party living in Town, must acknowledge before the Chief Justice, in the Manner set out in Page 473.

And then you must have a half *Dedimus* from the Cursitor of the County, where the Land lies, for the Chief Justice to return such Caption.

If the Husband sets the Wife's Hand to a Fine, and she doth after acknowledge it, it is good. *Darby versus Naylor, Mich. 6 W. & M. 1694. Vide ante, Covenant, & postea Writs.*

Release.

Release.

Damages released. If Damages be given upon several Issues, the Plaintiff may remit the Damages as to one Issue.

Where Damages are entire, if the Plaintiff releases the Whole, he thereby releaseth the Action also.

Rescous. Vide Attachment.

Regul'.

Rule peremptory in Real Actions. In all Real Actions, after your Common Rule to plead is out, before you can have Judgment, you must move by Counsel for a Peremptory Rule.

Rule discharged of Course. If a Rule be made, The Cause shall be shewn such a Day, and it be accordingly, the Rule is discharged of Course.

Regula, That if after two Summons, not appear, to proceed ex parte. Ordered in *Michaelmas* Term 1679. per *Cur'*, That all the Prothonotaries were desired to take Notice, that upon Reference by Rule of Court to any of the Prothonotaries, if after two Summons and Affidavit made thereof, the Party summoned would not appear, they should proceed *ex parte*.

Regula, Affizes. Motion to make a Rule made at the Affizes a Rule of Court, *allocatur*.

If

If you swear Notice, your Affidavits must name the Parties to whom it was given. Com. Pleas.
Notice.

If a Rule be made with a *Nisi causa*, ~~*Nisi Causa*~~ and no Cause is shewn upon that Rule, at the Day upon Affidavit of the Service of such Rule, you may move the next Day to make it absolute.

Where the Defendant goes out of Court *sine die*, by Reason of a Disability of the Plaintiff, when the Disability is removed, the Plaintiff must sue out a Re-summons against the Defendant, to bring him into Court again. Disability of
the Plaintiff,
and Re-sum-
mons.

When you move against a Rule granted on an Affidavit, you must have a Copy of such Affidavit made and signed by the Secondary, with whom it is filed, or else the Court will not hear the Motion. To alter a
Rule.

In a Real Action you cannot sign Judgment, without a Special Rule of Court. Rule in
Real Actions.

Upon a Nonsuit in either of the Courts of *Westminster*, Oath being made of the Costs taxed and demanded, the Court will not let the Plaintiff proceed in a new Action for the same Cause, till he hath paid the Defendant the Costs of the Nonsuit. Nonsuit.
Costs.

Rules to plead cannot be given before the Declaration is delivered, or any Appearance for the Defendant be actually entered. Rules to
plead.

Where a Rule of an Assize is made in Action of *Trover*, That no Costs shall be made to either, they tax Costs and get Judgment. Ordered, That Judgment be staid. Rule of Assize.

Com. Pleas. staid till Cause be shewn on the other
 Side. Mich. 1689. Pollexfen.

Sheriffs.

Vide 403.

A *Superfedeas*
 to the Sher-
 riff to in-
 dempnify
 Bail.

Attachment
 against Sher-
 riff.

Where the Sheriff hath a Bail-Bond upon an Affidavit of the Agreement of the Parties, a Special *Superfedeas* has been granted to discharge the Bail from the Sheriff.

Moved for an Attachment against the Sheriff and Under-Sheriff (for denying to make a Warrant upon an Execution delivered them) to be directed to the Coroners. Granted to be sued without further Motion.

Restitution.

Upon a Writ of Restitution, if the Sheriff hath sold the Goods, he must restore the Money.

Fees.

North: The Stat. 29 Eliz. cap. 4. doth not give the Sheriff Leave to hold his Fees out of the Money levied; but if he may take them before-hand.

Cepi Corp?

If the Sheriff returns *Cepi Corpus*, whether he may at any Time after take up his Prisoner for his own Indemnity: And *per tot' Cur' Quære*.

Ret. Fi' Fa'
per Vic?

The Sheriff upon a *Fieri Fac'* may return, *Quod nulla persona venit ad monstrand' mihi bona*; and it is a good Return, and he shall not be forced to execute a second *Fieri Fac'* till some Body go with him to shew him which are the Defendant's Goods

Goods: But he cannot in this Case re-Com. Pleas.
turn *Nulla bona*.

Per Lord North, the Sheriff's cannot discharge a Prisoner upon a Process out of the *Common Pleas*, by putting in Bail before a Judge of the *King's Bench*; neither can the Judges of the *Common Pleas* take Bail to a Process out of the *King's Bench*; *per tot' Cur'*. Bail taken
in B. R. &
econtra.

If a Sheriff does not return your Writ though called for, you may upon a Motion in the Treasury, get a Rule for him to return it; or the Secondary will draw it up of course for you, which you must serve; and if he does not return it on that Rule, you may on Affidavit of the Service obtain another, and for Default of a Return on the second Rule, you in like manner get a Peremptory Rule for him to return it by a certain Day, and if he does not return it, then you may upon Affidavit of Service of such Rule, and that you then demanded a Return thereof, and that he has not returned yet, move for an Attachment against him.

But *Note*, such Affidavit ought not to be made till just before the Motion, for otherwise the Court will not grant the Motion, for perhaps the Sheriff may have returned the Writ since the Affidavit sworn.

A Captain is arrested, and afterwards discharged: Moved, That the Sheriff might not return his Writ, and denied *per Cur'*: *Mich. 1689. Pollexfen. Quære.*

Moved

Com. Pleas.

Attachment
vers. Bailiffs.

Moved, That an Appearance may be taken on the Sheriff's Bond, given to the Defendant's Bailiffs to indemnify the Sheriff, and the Debt is paid, and a Discharge is got from the Plaintiff to the Sheriff; yet the Bailiffs arrest the Defendant's Security, and carry him to Gaol, notwithstanding he tenders them good Security, for Fees as they pretended: Let the Plaintiff's shew Cause why an Appearance should not be entred, and an Attachment against the Plaintiffs. *Moore versus Haynes, &c.*

The Sheriff returns a *Cepi Corpus*: You must first file the *Cepi*, and then proceed to amerce him; which Amerciaments must be in the Filacer's Office. *Pasch. 7 W. & M.*

Cepi returned,
how to amerce.

Moved to alter the Sheriff's Return; for that he had returned on a *Sci' Fa'* all the Tenants, and they would have it returned only against *Viner* the sole Landlord; and denied *per Cur'*: *Hill 1690.*

Supersedeas; Vide ante *Judic'*.

Vide in Libro Page 420, 469.

Trespafs, Assault, &c.

Full Costs

Trin. 27. Car.

2. Rot. 1614.

FULL Costs where given where the Trespafs was exactly as here. *ped' ambuland' & arbores succidit Cepit & Asportavit*; and Verdict found generally, as in this Case. But the Judges bid Mr. *Robinson* inquire

inquire of Mr. *Livesay*, what was the Prac. Com. Pleas. tice in the *King's Bench* in the same Cases; and he affirmed he always gave full Costs where an *Asportavit* is laid: Reported to the Court by Mr. *Robinson*. But if the Declaration had been, and the Jury had found *Mæremiu' & lignum inde provenien' ceperunt & asportaverunt*; all agreed there must have been full Costs. *Vide Costs.*

This is a constant Rule, That if an *As-* Rule for *portaver'* be laid in the Declaration, and Costs. the Verdict be found for the Plaintiff generally, upon *Non Culp'* pleaded that he shall have his full Costs.

Moved *pro Defendente*, That the Plain- No more tiff should have no more Costs than Dama- Costs than ges. If in *Transgr'* the Title comes in Damages. Question, so that it must be given in Evidence, the Plaintiff shall have full Costs: But in this Cause the Defendant pleads a Way; the Plaintiff replies, *Extra viam*: To which the Defendant rejoins, *Non culp'*: And this is barely *Not Guilty*; and therefore (*per Act 22 & 23 Car. 2. cap. 9 sect. 149. Vide Bro. fol. 56.*) an Action brought on this Statute for suing out a *Ca' Sa'* for 7 l. Damages.

If in Trespafs for mean Profits, and you Time are doubtful of the Time, the best Way is doubtful, to bring two Actions, one from the Beginning of the Time you doubt of, and another from the Time certain.

In an Action of Assault and Battery *Simulcum* in the Writ was without a *Simulcum*, and the Assault and *Narr'* was with a *Simulcum*; and moved to Battery. cross out the *Simulcum* in the *Narr'*, and *Mich. 1689.*

P p

denied

Com. Pleas. denied. The Prothonotary said, That the Writ must say *Simulcum*, or else it cannot be put in the *Narr*.

Costs in Assault and Battery. Moved, That where the Plaintiff had sued three Defendants, and two are found guilty in an Action of *Affault* and *Battery*, that the Plaintiff might have Costs against the two, and denied. *Pasch. 7 W. & M. 1690.*

Costs in Transgr. Costs on Trespafs allowed, where the Corn, Straw, or Soil is taken or carried away; or if removed up, out of an Inferior Court; otherwise no Costs. *Trin. 1692. Lord Chief Justice Treby.*

Simile. No Costs in Trespafs in Ploughing; because there is no *Asportavit*.

Treasury.

Treasury Motions. Ordinary Motions, where no Affidavit is to be read, are usually made by Attornies in the Treasury; but none upon Affidavits.

Al' Hab' Corp' cum pœna. An *Al' Hab' Corp' cum pœna* is granted in the Treasury upon Motion; and therefore you need not move the Court for it.

May move in the Treasury, to bring any Sum under 5*l.* into Court.

Triatio.

Per Regul' Trin' 2. Georgii.

Notice.

Whereas in divers Actions, the Plaintiff many times in pleading concludes ad patriam, and the Defendant not being obliged to join Issue or demur, till a four Days Rule is expired, thereby Plaintiffs are greatly delayed, for the Prevention of which for the future, it is ordered, that the Defendant's Attorney shall accept of Notice of Trial, upon the Back of such Pleading, and the same shall be as good and effectual as if Issue was joined.

Where the Plaintiff hath given Notice of Trial, and does not proceed nor countermand the Notice before the Assizes, the Defendant on Affidavit made by him. or his Attorney, of his Attendance, and that no Countermand of Notice was given, or if any, that it was not Time enough, setting forth the Countermand in your Affidavit, may the next Term of Course have a Rule without Motion, for his Costs of Attendance, to be taxed him by the Prothonotary; which Rule must be served on the Plaintiff's Attorney after the Prothonotary therein hath set down a Day for him to attend: At which Day, if he refuse to attend, or shew no good Cause to the contrary, the Prothonotary taxes you 33 s. 4 d. at the Bottom of the Rule, which you are to recover by serving the Plaintiff personally with a Copy

Costs for not proceeding to Trial.

Com. Pleas. of the Rule and Taxation, and demanding the Money; which if he refuseth to pay you, upon Affidavit and Motion the the Court grants you an Attachment.

Vide Attachment. §14.

A New Trial upon Sug- Motion for a new Trial, upon Sug-
gestion of an Agreement, granted upon ges-
tion of an Agreement. bringing the Money into Court within
twelve Days, and to pay full Costs, or
else the Plaintiff to take his Judgment,
1679.

Simile for not
shewing
Rule of
Court.

For a new Trial; because the Copy of the Issue was mended, and afterwards upon Tender refused by the Defendant's Attorney, because the Plaintiff's Attorney did not shew him the Rule of Court for the amending, nor tender him the Costs by the Rule directed. Ordered to stay the *Postea* till examined, 25 Octob. 1679.

In Hue and Cry, where the Count is left out.

For a new Trial in *Hue and Cry*, where (after the Recital of the Act of Parliament) the Count was left out in the Imparlance, tho' inserted in the Issue. Ordered to shew Cause why the Defendant should not have a new Trial.

Where Jury finds contrary to the Judge's Direction.

For a new Trial, where the Jury found contrary to the Judge's Direction. In this Motion you must produce the Judge's Certificate (of the Jury finding contrary to his Direction) in Court.

Where a Jury-man designed Money of the Plaintiff.

For a new Trial and an Attachment against *Topfall Randall* a Juryman, for demanding Money of the Plaintiff; which the Plaintiff refusing, he said, it had been better for him he had; and the Verdict against the Evidence was given against the

the Plaintiff. *Per Cur'*, Day given to shew Cause why a new Trial and an Attachment should not be granted, as prayed.

Vide postea Verdict.

For a new Trial by Reason of excessive Damages given in Assault and Battery. Rule to shew Cause why upon bringing in the Money, and paying full Costs, a new Trial should not be granted.

For excessive Damages.

After the Defendant has pleaded, and the Issue is joined, the Plaintiff must go on to Trial (although the Defendant will not accept the Notice, or declare that he will not attend) and will have Verdict. No Interest is allowed upon a Book-Debt, because the Forbearance to sue is the Plaintiff's Courtesy.

Trial.

Book Debt.

If you move for a Trial at Bar, you must make Affidavit that the Lands or Premises in Question are of the Value of 60*l.* *per Annum.*

Trial at Bar.

Moved, That the Lessor of the Plaintiff was dead, and he being but Tenant for Life, and so bound by the Special Verdict, the Plaintiff can have no Execution by the *Ha' Fa' poss'*. *Per Cur'*, Bring your Writ of Error; we will take no Notice of this Suggestion.

The Court will put of a Trial upon the Affidavit of the Defendant, setting forth that he has a material Witness, and without whose Testimony he cannot go to Trial, but you must particularly shew in your Affidavit the Reasons why you cannot find the Witness, or have him at the Trial.

Com. Pleas.

Jury at Trial
at Bar *per*
Tales.

Where a Jury is not full upon a Trial at Bar, the Plaintiff shall have *Tales ret* the next Return, *per Stat.* 17. Car. 2. for there does not need 15 Days between the *Teste* and Return of it.

Juror with-
drawn.

If a Juror be withdrawn, the Defendant cannot carry it down by *Proviso*, because the Cause stays by Consent of both Parties.

Judges Opin-
ion except-
ed against.

Per Lord North; If upon Trial the Judge hath no Matter of Fact to direct, but gives his own Opinion, then the Party grieved may have a Bill of Exceptions: But if the Judge direct contrary to the Matter of Fact, then you may demur to the Evidence.

Costs of a
new Trial.

No Trial shall be set aside without Costs being paid of the first Trial.

A new Trial
upon *riens per*
Discent on a
Surprize.

Debt against an Heir, and *riens per Discent* pleaded; at Trial a Seizure of the Father in Parcel of the Lands is proved, and upon Affidavit that he never was possessed, but another, it was ordered a new Trial. *Ramsden versus Batt*, Mich. 1690. *Pollexfen*.

Notice of
Trial on an
old Issue.

If Issue be joined above 12 Months, and no Notice of Trial in that Time given, you must give a whole Term's Notice, and that before the Term begins, or not good. *Trin.* 1692. *Treby*.

No Countermand of Trial at the Assizes shall be good, unless Notice be given two Days before the Commission-Day.

N. B. No Countermand to be given on a Sunday. *Mich.* 5 Geo.



Venues & Venire Fac'.

IN Motions to alter *Venues*, the Defendant must make Affidavit touching the Place where the Cause of Action did arise, and such Motion must be made before the Rules to plead are out, or any Plea pleaded. *Pasch. 7 W. & M. Pollexfen.*

You need not give any Notice of the Motion to change the Venue.

If the Motion be granted, the Defendant must pay the Plaintiff for a new Original. *Vide postea.*

There need not be 15 Days between the *Teste* and Return of the *Venire Fac'* by Statute, to try a Cause in the Country; it is always returned the last Return of the Term; in *London* or *Middlesex*, the second Return; it must not bear *Teste* before Issue joined, for then there is no Issue to warrant it; it must be awarded the last Return of the same Term the Issue is joined upon your Issue-Roll of that Term. But in the Record and *Venire fac'*, the first Return of the same Term you try it, if it be three or four after.

The Court will never alter a *Venue* in Upon an E-
an Escape; which was moved by Mr. ^{escape no Ve-}
Grange, and denied *per tot' Cur' Octob. 1689.* ^{nue altered.}

Moved to mend a *Venire Fac'*, where it *Vitiu' Scriptoris*
was only *Vitium Scriptor' (viz.)* In an Ac- ^{is amended}
tion of Trespass only, the Clerk had writ ^{in the Ven'}
in ^{fa'.}

Com. Pleas. in the *Venue*, de *placito Transgr' & Ejectione firme*. Per Cur', Let the *Ejectione firme* be struck out, if upon Examination of the Prothonotary it be found only to be *Vini-um Scriptoris*, and that there is no Error brought.

Notice to be given on altering *Venues*. If the *Venue* be changed after Notice of Trial given, you must after such Alteration give fresh and due Notice, otherwise the Judgment will be set aside, although the Attorney on the other Side accepted the Declaration by an Oversight, and paid for it.

Venire fac' to alter. Where a *Venire fac'* is returnable the last Return within Term, you cannot have Execution (on a Verdict) the same Term.

To alter a *Venue* in Debt on a Lease Parol. To alter a *Venue* in Debt upon a Lease-Parol, by Prothonotary, the Action is transitory, and it is not usual to alter the *Venue* in this Case: The Court seemed inclinable, that on a Lease-Parol, if it were made in the County where the Lands lie, the *Venue* might be altered and laid in the proper County, and accordingly made a Rule *Nisi Causa*.

In Trover. To alter *Venue* in Trover for the Plaintiff: Lord North; The Trover shall be admitted to be in that County where the Plaintiff lays the Conversion.

Venue changed. Where a Man lays an Action in any improper County, there the *Venue* shall be changed *ex debito Justitie*.

Not to be changed. In an Action of Debt for Rent, Action of Covenant, or upon any Bond or Speciality, or in an Action of Account, Render, the Court will not alter the *Venue*.

To

To change the *Venue*, if the Declaration Com. Pleas. be of the same Term wherein it is delivered, there needs no Oath for the Declaration of the same Time of the Receipt of the Declaration ; Term. otherwise you must set it forth in your Affidavit when you received it. 1 Bro. fol. 494.

In the *Venire facias* the usual Words formerly were, That every Juror should have 4 l. of Land, &c. But now by the Stat. 4 and 5 W. & M. c. 24. it is enacted, That all Jurors to be returned for Trials of Issues joined in the King's Bench, Common Pleas or Exchequer, or before Justices of Assize or Nisi prius, &c. (other than Strangers upon Trials per medietatem Linguae) shall have in their own Name, or in Trust for them, within the same County, 10 l. per Annum, and in Wales 6 l. at the least. And if any of a lesser Value shall be returned, it shall be a good Cause of Challenge, &c. Therefore the Writ must run, Quorum quilibet habeat Decem librat' Terre ten'torum vel reddit' per annum ad minus per quos, &c. If the Sheriff, or other Officer or Minister, shall return such as are not of such Worth, he shall forfeit respectively 5 l. to his Majesty for every Person.

If he returns any Person to be summoned, unless he was duly summoned six Days before the Day of Appearance, or take any Reward to excuse his Appearance, he shall forfeit 10 l. to his Majesty.

Saving to all Cities, Boroughs and Towns Corporate, their ancient Usage.

Com. Pleas.

Tales men need to have but 5 l. per An.
in England, and Wales 3 l.

Such Officer as takes Reward for returning
of any Tales, forfeits for every Offence 10 l.
one Moiety to the Prosecutor, the other to His
Majesty.

No Writ, De non ponendis in Assis &
Juratis, to be granted, unless upon Oath
that the Suggestions be true.

This Act after several Continuances was
by 9 Georgii cap. 8. continued 7 Years
longer.

Stat. 4 and 5 Annæ cap. 16. it is enact-
ed, That Venires out of Courts of Record at
Westminster, shall be awarded of the Body
of the County, except in Felony, Murder,
Treason, and on Penal Statutes.

Verdict.

Joint Action.

Where a Joint Action is brought against
two and both plead the same Plea, if the
Verdict be found only against one, the
other against whom it is not found, re-
covers no Costs: If one had confest Judg-
ment, and the other pleaded, and a Ver-
dict gone against him, the Costs of Trial
are against them joint, and, he that con-
fessed Judgment is as far liable to them as
the other, and there is but one Taxation:

To set aside
a Verdict.

To set aside a Verdict; for that the
Jury was tampered with by the Plaintiff,
and it was so alledged, That the Fore-
man of the Jury just before the Trial,
advised

advised the Defendant to make an end of ^{Com. Pleas.} it, for that it would go against him; and that he and the rest of the Jury were well satisfied in it: *Concess' per Cur'* a new Trial upon the tampering.

A Verdict given at the Assizes to be ^{Special Verdict.} Security to stand to an Award, and a Rule thereupon made at the Assizes. *Quare* the Form of the Rule.

A Verdict given at the Assizes, you may after the four first Days in Term, sign your final Judgment, the Defendant having so many Days to move in Arrest of Judgment, &c. But you must first get your *Postea* from the Associate, and Stamp it with a double Half-Crown, before you can sign the final Judgment.

A Verdict given at the Assizes for Secu-Verdict for ring the Payment of Money, Part where-Part of a of was paid, and the Plaintiff moved the Debt. Court to take out Execution for the Residue, *Quod Concess' Nisi Causa*.

A Verdict cannot be given but in the Verdict gi. Presence of the Plaintiff; and therefore ven. if he will not appear, he must be nonsuit.

The Court will not set aside a Speci-^{Special Verdict.}al Verdict without the Consent of the other Side.

If the Repair of Fences be in Question, Fences in and the Plaintiff hath a Verdict, he shall question, full have his full Costs, *Stat. 22 & 23 Car.* Costs. 2. at the End of the last Act.

Verdict may be taken upon any Part of the Declaration, to which the Evidence is applicable.

Witness.

Com. Pleas.



Witness.

Answer in Chancery no Evidence. It was said by Serjeant *Maynard* upon a Motion, That the Matter sworn in an Answer in Chancery, could not be read as Evidence in the Common Pleas.

Pauper allowed Costs. Though the Plaintiff be a *Pauper*, yet the Court said he must have small Costs, for that he must be at the Charge of the Witnesses.

Where several Persons are joined in an Action, and some found Not guilty, or no Evidence given against them, they may be allowed as Witnesses in the same Cause; for the Plaintiff might have no just Cause of Action against them, but made them Parties to take away their Testimony, by which Means, the Plaintiff might deprive the Defendant of all his Witnesses, if they should not be admitted for good Witnesses.

One that is any Ways concerned in the same Title of Land in Question, may not be allowed as a Witness in the Cause, altho' he be then no Ways a Party to the Suit, for his Testimony tends to the Strengthening of his own Title.

Deed in Evidence. If you have a Deed that you must produce as Evidence at a Trial the best Way is to bring it in the Treasury, and move there, that it may be admitted at the Trial by the other Side; which if they refuse, Full Costs. then the Court will give you the full Costs

Costs of your Witnesses to prove it; but if you do not so move, you shall have your ordinary Costs; *per North*: And you must give Notice before-hand of your Motion.

If the Original Deed be in Being, the Counterpart shall not be read as Evidence, unless the Party producing it can make sufficient Proof, that he hath used his utmost Endeavour to procure the Original

Deed Original and Counterpart.

If you have Occasion for a Deed (at a Trial) which is in a Third Person's Hands, you may have a *Subpœna* with a *Duces tecum* of the Deed; and if he fails, the Court will order him ——— Lord *North* said, that in the King's Bench the Lord *Bedford* being *subpœna'd* with a *Duces tecum*, brought an Original Deed into Court, lock'd up in a Box, which he denied to open (tho' advised by the Court to open it) and produce the Deed (but they could not oblige him to it;) and because the Original was in Court, the Court could not suffer the Counterpart to be read even in this Cause. ——— The same Case, *Mich. 1689.* and denied to bring Writings into Court upon a Motion.

Deed in Hand of a Third Person.

One of the Jury in a Trial at Bar was sworn as Witness, and then examined.

One of the Jury a Witness.

It is said, That a Person that is Bail for the Defendant cannot be admitted as an Evidence for him, therefore in such Case, it is best to change such Bail.

Agreed *per Cur'*, That a Bill in Chancery between the same Parties should be read as Evidence, though it be not a binding

Bill in Chancery.

Com. Pleas. ing Evidence ; if it be not between both
 the Parties at Common Law, it shall not
 be read———One of the Plaintiffs in a
 Bill of Chancery being dismissed there,
 Party in a by a Rule of Court was sworn in Evidence
 Bill. in a Trial at Bar in the Common Pleas,
 tho' it was much opposed by the Counsel
 on the other Side.

Cannot send It was moved, That a Rule might be
 for Papers to granted for the Custom-House to bring
 be Evidence their Books to charge the Defendant at
 at a Trial. Trial withal, and denied. *Mich. 1690.*
Pollexfen.

Words.

Original in In *Scandalum Magnatum*, it is best to sue
Scandalum out an Original, *per North.*
Magnatum. *Vide the Second Volume of Instructor*
Clericalis.

Writs.

Writ of Privilege. *Vide ante Tit. Attorn'.*

Special Writ. Where the Writ is Special, you cannot
 declare in another Action ; and if you
 do, the Defendant may plead in Abate-
 ment.

No Fine can be taken at Bar if the Writ be not under Seal, *per Wyrley*.
 For the Returns of Writs see at the Beginning of this Treatise, Page 26.

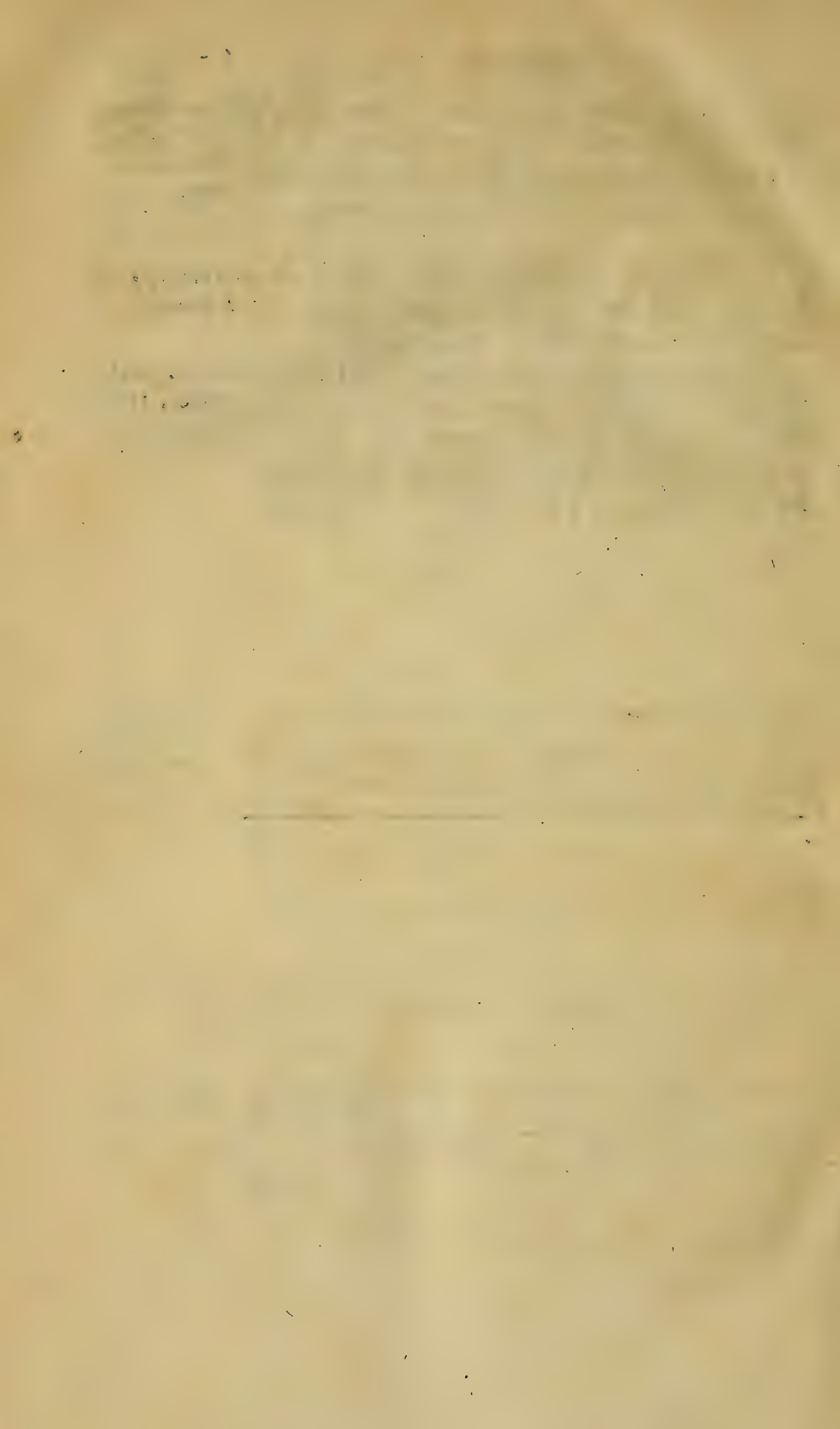
Com. Pleas.

Writ of a Fine.

A Writ of Possession was tested on a Sunday, and for that Reason a Writ of Restitution was awarded. *Hill. 10. W.*

Where there is an Original Writ which varies in Substance from the Count, this is not remedied by the Statute of *Jeofails*; but when there is no Original, it is helped by the Statute. 5 Co. 37.

If Original varies, it is ill.




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